

ENVIRONMENTAL ASSESSMENT, FINDING OF NO SIGNIFICANT IMPACT, and DECISION RECORD¹

ENVIRONMENTAL ASSESSMENT

EA Number: OR-086-06-01

BLM Office: Tillamook Resource Area, Salem District Office, 4610 Third Street, Tillamook, Oregon, 97141

Proposed Action Title: McMinnville Water and Light Right-Of-Way (OR35903)

Type of Project: Right-of-Way for Stream Gauging Station

Location of Proposed Action: Township 3 South, Range 6 West, Section 15, Willamette Meridian, Yamhill County, located approximately 12 miles west of the City of Carlton, Oregon.

Conformance with Applicable Land Use Plan: The proposed action is in conformance with the *Salem District Record of Decision and Resource & Management Plan* (RMP), dated May 1995; *Scappoose Creek Watershed Analysis*, dated December, 1996; *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and Standard and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl*, dated April, 1994; *Record of Decision Amending Resource Management Plans for Seven Bureau of Land Management Districts and Land and Resource Management Plans for Nineteen National Forests Within the Range of the Northern Spotted Owl - Decision to Clarify Provisions Relating to the Aquatic Conservation Strategy*, dated March 2004; and *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*, dated March 2004; and other applicable guidance.

¹ Pursuant to BLM Handbook 1790-1, Rel. 1-1547, 10/25/88, page IV-11, it is appropriate to use this format when all the following conditions are met: 1/ Only a few elements of the human environment are affected by the proposed action; 2/ Only a few simple and straightforward mitigation measures, if any, are needed to avoid or reduce impacts; 3/ There are no program-specific documentation requirements associated with the action under consideration; 4/ The proposed action does not involve unresolved conflicts concerning alternative uses of available resources and, therefore, alternatives do not need to be considered; 5/ The environmental assessment is not likely to generate wide public interest and is not being distributed for public review and comment; and 6/ The proposed action is located in an area covered by an existing land use plan and conforms with that plan.

Purpose of and Need for Action:

McMinnville Water and Light Department is requesting a right-of-way to construct, maintain and collect data from a stream gauging station on BLM lands adjacent to Walker Creek, a tributary to the Nestucca River. The purpose of the gauging station is to determine the nature, extent, and quantity of stream flows, to assess variability of flows, and in general to more accurately determine availability and predictability of flows in Walker Creek in order for them to utilize their state water rights. McMinnville Water and Light Department is considering diverting a portion of winter flows in Walker Creek to McGuire and/or Haskins Reservoirs to meet future water needs of their customers.

Description of the Proposed Action:

The proposed Federal action is to issue a right-of-way grant to McMinnville Water and Light Department to construct, maintain and collect data from a stream gauging station on Walker Creek. The right-of-way grant would be for a period of 30 years. The station would be located on BLM land between the BLM-controlled AB road and Walker Creek in T. 3 S., R. 6 W., section 15, Willamette Meridian. This site is approximately 100 feet downstream from the BLM Walker Flat Area of Critical Environmental Concern (ACEC). Walker Creek is also listed as an Oregon Scenic Waterway under the jurisdiction of the Oregon Parks and Recreation Department.

McMinnville Water and Light anticipates using a US Geological Survey type walk-in gauging station, which consists of a pre-fabricated bolt-together instrument shelter, staff gauges, crest-stage gauge, conduit and instrumentation. The instrument shelter would be 3'6" x 3'6" x 6'6" and constructed of painted steel fastened to a concrete slab located above the high-water line. Two staff gauges would be installed in the low-water channel and higher up on the stream bank. The staff gauges would be fastened to plastic lumber bolted to steel supports driven into the ground. A crest-stage gauge, consisting of a 2" diameter steel pipe about 5' in length, would be installed in a vertical position on the stream bank, possibly using the same support as the upper staff gauge. Steel conduit, consisting of 1.5" diameter galvanized pipe, would extend from the instrument shelter to the stage gauge and would be buried where possible. The conduit is to secure and protect stage and water temperature sensors and wiring. There would be no external power or communication lines to the station, as electricity would be supplied by solar panels mounted on the instrument shelter and there are no plans to establish remote communications with the instruments in the station. All construction and installation work would be done with hand tools, with the exception of a motorized concrete mixer. It is anticipated that three or four small (less than 12" diameter at breast height) alder trees would need to be cut to create sufficient room for the instrument shelter and to maintain an opening for the solar panels to function. All construction work will occur between March 1 and September 30, 2006.

Design Features:

Activities on BLM-administered land within 0.25 mile of occupied, or unsurveyed suitable or potential, marbled murrelet habitat, that will produce noise above ambient levels (primarily the operation of the concrete mixer), and that will be implemented between April 1 and September 15, will not begin until 2 hours after sunrise and will end 2 hours before sunset.

Keep excavated material outside of wetted stream bed. Keep all uncured cement out of stream.

The instrument shelter shall be placed as far back from Walker Creek as possible to reduce visual impacts.

The instrument shelter and other outside metal components shall be painted dark green and brushy species such as vine maple or ninebark shall be planted next to the instrument shelter to reduce the visual impacts from Walker Creek.

Consultation and Public Involvement:

ESA consultation:

- Wildlife: Consultation for spotted owls and marbled murrelets pursuant to section 7 of the Endangered Species Act would be accomplished programmatically under the consultation entitled *Formal and informal consultation of the FY 2004 – 2008 rights-of-way authorizations for Salem and Eugene Bureau of Land Management Districts* (USFWS Reference # 1-7-04-F-0253)
- Fish: Consultation is not required for species covered under section 7 of the Endangered Species Act or for coho salmon covered under the Magnuson-Stevens Fisheries Conservation and Management Act as there were no effects identified that would affect these species or their habitat.

Public Involvement: In compliance with the National Environmental Policy Act, the proposed action (*Process requests (EA/CX/DNA) for various land uses such as rights-of-way, tailholds, and special use permits.*) was listed in the June 2005 edition of the quarterly *Salem District Project Update*, which was mailed to over 1,200 addresses. No public comments were received in response to this scoping.

Affected Environment:

General: The project is within the Nestucca River Watershed. The land use allocation is Adaptive Management Area (AMA) and Riparian Reserve. The proposed gauging station location is on Walker Creek, a small tributary that enters the Nestucca River approximately ½ mile downstream from McGuire Reservoir. Vegetation at the gauging station site is composed of 50-year old red alder, with a groundcover of salmonberry and other brush species, and within 50 feet of the site is a stand of 85-year old conifers. Walker Creek is an Oregon Scenic Waterway managed under the jurisdiction of the Oregon Parks and Recreation Department. The Walker Flat ACEC is located within 100 feet of the proposed gauging station site. This ACEC contains a population of *Sidalcea nelsoniana*, which is a federally listed as threatened.

Threatened/Endangered (T/E) Plants: No threatened or endangered species are located within the project area. Even though a substantial established population of *Sidalcea nelsoniana* (Nelson's checkermallow) is located within ½ mile of the project area, no activities associated with this project will adversely impact the *Sidalcea* site.

Threatened/Endangered (T/E) Wildlife: The proposed action is not within or near Designated Critical Habitat for the northern spotted owl or marbled murrelet. There are no known spotted owl or marbled murrelet known occupied sites or bald eagle nests or eagle roosts within the vicinity of the proposed action. There is unsurveyed suitable habitat for the marbled murrelet, and spotted owl within the immediate vicinity of the proposed action. Although daily time restrictions have been incorporated to minimize the potential for impacts, the project will generate noise above the ambient level during the critical owl and murrelet breeding seasons. The project *May affect and is likely to adversely effect* the marbled murrelet, and spotted owl based upon the potential for disturbance. The project would be of *No Effect* upon the bald eagle.

Threatened/Endangered (T/E) Fish: The proposed locations for the gauging station are within probable habitat for Oregon Coast coho (proposed, ESA). However, there should be no effect on T/E species or their habitat. The project area is above a partial boulder chute barrier on the mainstem Nestucca, which has very low rearing densities of Oregon Coast coho, and the specific site areas are riffle/glide habitats, which do not generally serve as rearing habitat for coho. The project will not contribute to the need to list Oregon coast coho under the Endangered Species Act.

Water Resources: Walker Creek is a fourth-order stream in the headwaters of the Nestucca River. The City of McMinnville has a surface water right (S 27520) for municipal use on Walker Creek, as well as a reservoir permit (R 2653) to impound up to 4,500 acre-feet of water at the same location. McGuire Reservoir, a municipal water supply also owned by the City of McMinnville, is within ½ mile of the proposed gauging station location on the mainstem Nestucca River. There are no known public or private domestic uses within 10 miles downstream from the project area.

The Oregon Department of Environmental Quality (ODEQ) has listed streams segments in the Nestucca watershed as water quality limited (303(d) 2004). They include Powder Creek to headwaters for habitat modification; the Nestucca River mouth to River Mile 15.5 for dissolved oxygen; and the Nestucca mouth to Powder Creek for flow modification. In 2002, ODEQ established TMDLs (Total Maximum Daily Loads) for bacteria, sediment, and temperature for all streams in the Nestucca watershed.

Magnuson-Stevens Fisheries Cons/ Mgt Act (Essential fish habitat): Coho habitat in the area of the gauge site is included in the essential fish habitat provisions of the Magnuson-Stevens Fisheries Conservation and Management Act.

Other Special Status Species (Fish): Fish Special Status Species (SSS) within this watershed or potentially within this watershed include Oregon coast ESU Steelhead (Federal candidate), coastal cutthroat trout, river lamprey, and pacific lamprey all of which are (Bureau Tracking)

species. The proposed action will not affect these species or contribute to the need to list them under the Endangered Species Act.

Other Special Status Species (Plants) : None present.

Other Special Status Species (Wildlife): Based upon the scope and nature of the proposed action, no Bureau 6840 Special Status Species Policy species are expected to be impacted by the project therefore the project would not result in elevating their status to any higher level of concern including the need to list under the Endangered Species Act.

Invasive / Noxious Weeds: All invasive / non-native noxious weeds identified within the vicinity of the project area are designated Priority III (established infestations) on the Oregon Department of Agriculture (ODA) noxious weed list. These weed species are commonly found throughout Western Oregon tending to occupy areas that have soil disturbance and an increase of available light. Based on minimal disturbance to the existing tree canopy and soil within the project area, weed invasion to the site will be limited and not be expected to persist.

Environmental Effects:

The interdisciplinary team reviewed the elements of the environment, required by law, regulation, Executive Order and policy, to determine if they would be affected by the proposed action. *Table 1* (Critical Elements of the Environment from BLM H-1790-1, Appendix 5) and *Table 2* (Other Elements of the Environment) and *Table 3* (Aquatic Conservation Strategy Summary) summarize the results of that review. Affected elements are **bold**. Unless otherwise noted, the effects apply to the proposed action; and the No Action Alternative is not expected to have adverse effects to these elements.

Table 1: Environmental Review for the Critical Elements of the Environment (BLM H-1790-1, Appendix 5)

<i>Critical Elements Of The Environment</i>	<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Air Quality (Clean Air Act)	Not Affected	No	The proposed action would have no adverse impact on air quality and would comply with the provisions of the Clean Air Act.
Areas of Critical Environmental Concern	Not Affected	No	The proposed action is within 100 feet of the Walker Flat ACEC boundary, but will have no affect on the ACEC .
Cultural, Historic, Paleontological	Not Affected	No	No pre-project surveys required as outlined in the Protocol for Managing Cultural Resources on Land Administered by the Bureau of Land Management in Oregon; Appendix D-“Coast Range Inventory Plan” (1998).
Energy (Executive Order 13212)	Not Affected	No	There are no known energy resources located in the project area. The proposed action would have no effect on energy development, production, supply and/or distribution.

<i>Table 1: Environmental Review for the Critical Elements of the Environment (BLM H-1790-1, Appendix 5)</i>				
<i>Critical Elements Of The Environment</i>	<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>	
Environmental Justice (Executive Order 12898)	Not Affected	No	The proposed action is not anticipated to have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.	
Prime or Unique Farm Lands	Not Present		There are no prime or unique farm lands in the project area.	
Flood Plains (Executive Order 11988)	Not Affected	No	The project is small in scale and would not change the character of the river floodplain, change floodplain elevations, or affect overbank flooding.	
Hazardous or Solid Wastes	Not Affected	No	The proposed action would have no effect on hazardous or solid wastes.	
Invasive, Nonnative Species (Executive Order 13112)	Not Affected	No	The proposed action would have no effect on invasive, non-native species.	
Native American Religious Concerns	Not Affected	No	No new ground disturbance is anticipated. Past projects of this type within this area have not resulted in tribal identification of concerns.	
Threatened or Endangered (T/E) Species or Habitat	Fish	Not Affected	No	It is possible that Oregon coast coho (proposed, FSA) are present in Walker Creek. The construction of the gauging station on Walker Creek however should have no effect on coho or their habitat. Habitat near the gauge site is generally not used by rearing coho if they are present in Walker creek. The proposed project will not contribute to the need to list them under the Endangered Species Act.
	Plants	Not Present	No	No threatened or Endangered species are located within the project area. Alteration to this habitat will not contribute to the decline or imperilment of any T/E species.
	Wildlife (including designated Critical Habitat)	Affected	No	Not within or near Designated Critical Habitat for the northern spotted owl or marbled murrelet. Potential for disturbance of spotted owls and marbled murrelets in unsurveyed suitable habitat during the critical breeding seasons.
Water Quality (Surface and Ground)	Not Affected	No	The proposed action is unlikely to alter the current condition of the aquatic system. Any short-term turbidity and sediment inputs produced by the project action would be in short pulses and likely not be measurable a short distance (<25 ft) downstream.	
Wetlands (Executive Order 11990)	Not Affected	No	There are no wetlands within the project area.	
Wild and Scenic Rivers	Not Present		There are no Wild or Scenic Rivers within the project area. Walker Creek is an Oregon Scenic Waterway under the jurisdiction of Oregon Parks and Recreation.	

Table 1: Environmental Review for the Critical Elements of the Environment (BLM H-1790-1, Appendix 5)

<i>Critical Elements Of The Environment</i>	<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Wilderness	Not Present		There are no wilderness areas within the project area.

Table 2: Environmental Review for the Other Elements of the Environment (Required by law, regulation, policy or management direction)

<i>Other Elements Of The Environment</i>	<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Coastal Zone (Oregon Coastal Management Program)	Not Affected	No	The proposed action is consistent with the applicable statewide planning goals identified in the Oregon Coastal Management Program.
Essential Fish Habitat (Magnuson-Stevens Fisheries Cons. /Mgt. Act)	Not Affected	No	The proposed gauging station would have no effect on essential fish habitat in Walker Creek, or the main stem Nestucca river located downstream. The construction must occur during a low water period (April through September). Compliance with the proposed methods, materials, and timeframe should have no effect on essential fish habitat on BLM managed lands.
Fire Hazard/Risk	Not Affected	No	The proposed action would have no effect on fire hazard or risk.
Forest Productivity	Not Affected	No	The project would not affect forest productivity.
Land Uses (right-of-ways, permits, etc)	Not Present	No	There are no existing R/W, permits, etc, at the proposed project location
Late successional / old growth	Not Present		There are no late seral or old growth stands or trees in the project area.
Mineral Resources	Not Present		There are no know mineral resources of commercial value in the project area.
Recreation	Not Affected	No	There is limited recreational opportunity within the project area, due to the restriction of public access across private roads.
Rural Interface Areas	Not Present		There are no rural interface areas within the project area.
Soils	Not Affected	No	The proposed action would result in a very small amount (approximately 15 ft ²) of soil disturbance.
Special Areas outside ACECs (Within or Adjacent) (RMP pp. 33-35)	Not Present		There are no special areas within the project area.

Table 2: Environmental Review for the Other Elements of the Environment (Required by law, regulation, policy or management direction)

<i>Other Elements Of The Environment</i>		<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Other Special Status Species/Habitat	Fish	Not Affected	No	Fish Special Status Species (SSS) within this watershed or potentially within this watershed include Oregon coastal ESU Steelhead (Federal candidate), coastal cutthroat trout, river lamprey, and pacific lamprey all of which are (Bureau Tracking) species. The proposed action would not affect these species or contribute to the need to list them under the Endangered Species Act.
	Plants	Not Present	No	A site visit was conducted and no Special Status Plant species were located at the proposed project location. Alteration to this habitat will not contribute to the decline or imperilment of any Special Status Species.
	Wildlife	Not Affected	No	Based upon the scope and nature of the proposed action, no Bureau 6840 Special Status Species Policy species are expected to be impacted by the project.
Visual Resources		Not Affected	No	The BLM lands are managed as VRM Class IV, which provides for management activities which require major modification of the existing landscape.
Water Resources (except Water Quality)		Not Affected	No	Proposed action would result in minimal disturbance and is unlikely to alter the stream's physical integrity or in-stream flows.
Other Wildlife Structural or Habitat Components (Snags /CWD / Special Habitats, road densities)		Not Affected	no	Based upon the scope and nature of the proposed action, no impacts to Other Wildlife Structural or Habitat Components (Snags /CWD / Special Habitats, road densities) are anticipated.

Aquatic Conservation Strategy Review: Table 3 shows the project's effect on the 4 components of the Aquatic Conservation Strategy (1/ Riparian Reserves, 2/ Key Watersheds, 3/ Watershed Analysis and 4/ Watershed Restoration).

<i>Table 3: Aquatic Conservation Strategy Review Summary (RMP pages 5-7)</i>		
<i>Components</i>	<i>Effect</i>	<i>Remarks /References</i>
Riparian Reserves	None	The proposed action entails construction and maintenance of a stream gauging station within a Riparian Reserve. These activities are predicted to maintain riparian resources due to the very small amount of disturbance to vegetation, soil and water resources.
Key Watershed	None	The proposed action is within a Key Watershed. It would conform to the management actions/directions e.g., reducing or maintaining existing road mileage.
Watershed Analysis	None	Nestucca Watershed Analysis, October, 1994
Watershed Restoration	None	Although the proposed action is not a component of the resource area's

Table 3: Aquatic Conservation Strategy Review Summary (RMP pages 5-7)

<i>Components</i>	<i>Effect</i>	<i>Remarks /References</i>
		watershed restoration program, it would not have an adverse effect on restoration efforts. Streamflow data obtained at this gauging station would aid in understanding hydrologic processes in the Nestucca watershed, which would benefit future watershed restoration efforts.

Interdisciplinary Team:

Table 4: Interdisciplinary Team Review

Affected Resource	Specialist	Initial	Date
Botany/Vegetation	Kurt Heckerth	<i>K.W.H.</i>	11-30-05
Cultural Resources	Tom Vanderhoof	<i>TMV</i>	11/30/2005
Fisheries	Russ Chapman	<i>MSCW</i>	12/01/05
Hydrology, Water Quality	Dennis Worrel	<i>DW</i>	11/30/2005
Other Resources/ NEPA	Bob McDonald	<i>bm</i>	12/1/05
Soils	Dennis Worrel	<i>DW</i>	11/30/2005
Wildlife	Steve Bahe	<i>SB</i>	12/1/2005

EA Prepared By: *Bob McDonald*

Date: 12/1/05

EA Reviewed By: *Bob McDonald*
NEPA / Plans

Date: 12/1/05

FINDING OF NO SIGNIFICANT IMPACT and DECISION RECORD

Based upon my review of this EA (Environmental Assessment Number OR-086-06-01), I have determined that the proposed action is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. Therefore, an environmental impact statement is not needed. I have also determined that the proposed action is in conformance with the approved land use plan. It is my decision to implement the proposed action, as described in the EA.

Right to Appeal: 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 McMinnville News-Register newspaper on December 6, 2005. Within 30 days of this notification, a *Notice of Appeal* must be filed in writing to the office which issued this decision – Field Manager, Bureau of Land Management, 4610 Third Street, Tillamook, Oregon, 97141. 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:

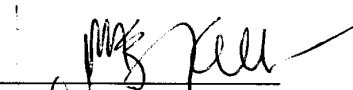
- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

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).

Implementation Date: If no appeals are filed, this decision will become effective and be implemented 30 days after the public notice of this Decision Record appears in the McMinnville Register newspaper.

Contact Person: For additional information concerning this decision or the appeal process, contact Bob McDonald at (503) 815-1110, Tillamook Resource Area, Salem District, 4610 Third Street, Tillamook, Oregon 97141.

Authorized Official:


Brad Keller, Field Manager
Tillamook Resource Area

Date: Dec 2, 05