

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NORTHWEST OREGON DISTRICT, CASCADES FIELD OFFICE**

**Full Force and Effect Decision Record
for the Riverside Post-Wildfire Emergency Stabilization and Rehabilitation Project
DOI-BLM-ORWA-N010-2021-0010-CX**

Description of the Proposed Action and the Purpose and Need for the Action

I have decided to implement the Riverside Post-Wildfire Emergency Stabilization and Rehabilitation Roadside Hazard Tree Removal Project as described in the Categorical Exclusion Review, DOI-BLM-ORWA-N010-2021-0010-CX (CX) within the 138,182-acre Riverside Fire (Fire) perimeter, of which 12,597 acres are BLM-managed lands. The Project will consist of emergency stabilization and rehabilitation (ESR) roadside hazard/danger tree removal on approximately 51.00 miles (approximately 2,241 acres) of BLM roads affected by the Fire. The focus of treatments will be to fell and deck trees that are unstable or have had structural integrity compromised by the Fire, risking partial or total failure. BLM will remove all dead and dying trees within striking distance of the road with an approximate average distance of 160 feet (based on lidar analysis¹) from each side of roads. Some snags will be left where standing. Depending on LUA and tree condition, some trees will be sold and hauled off site; others will be used for fish habitat restoration; and some will be left as down wood and coarse woody debris. Trees marked for commercial sale will be temporarily decked adjacent to existing roads or on old landing sites, road turnouts, rock pits and day-use parking areas. Log decks stacked during initial fire suppression and safety efforts will also be removed to prevent them from rolling onto roads or striking passing public. Other stabilization and rehabilitation activities under this Project include repairing and installing essential erosion control structures; replacing or repairing existing culverts, roads, trails, fences, and minor facilities; constructing protection fences; planting, seeding, and mulching as site-specific resources and conditions warrant.

The goal of this Project will be to strike a balance between managing for healthy trees with low-failure potential and encouraging forest vegetation that is a safe and natural environment along treated roads. Project activities would continue through October 2023 as necessary. Project Design Features and Best Management Practices will be implemented as on-site conditions warrant to ensure minimal-to-no adverse effects on resources within the Project area. Based on my review of the CX, I have determined that the Proposed Action will not significantly adversely affect the quality of the human environment and that no further environmental analysis is required for the following reasons:

Plan Conformance

The Proposed Action is in conformance with the following land use plan (LUP):

¹ For some sites, there may be trees taller than 160 feet that have potential to fall and hit people or vehicles on roads. In these instances, BLM would use a site-potential tree height and adjust roadside buffers.

The BLM signed a Record of Decision approving the *Northwestern and Coastal Oregon Resource Management Plan, USDI-BLM 2016* (2016 ROD/RMP) on August 5, 2016. This was based on the analysis completed in the *Proposed Resource Management Plan/Final Environmental Impact Statement*, Western Oregon (PRMP/FEIS), March 2016. The Proposed Action is also consistent with the actions described in 516 DM 2, Appendix 1, 1.13 (Emergency Stabilization). The Proposed Action was designed in conformance with all bureau standards and incorporates appropriate guidelines for specific required and desired conditions relevant to Project activities.

Compliance with the National Environmental Policy Act

The Proposed Action is categorically excluded from further analysis under the National Environmental Policy Act (NEPA) in accordance with 516 DM 2, Appendix 1, 1.13. The application of this categorical exclusion is appropriate in this situation because there are no extraordinary circumstances as provided in 43 CFR § 46.215 potentially having effects which may significantly detrimentally affect the environment and none of the exceptions apply. The Project will follow appropriate Project Design Features and Best Management Practices to ensure that adverse impacts to resources are minimal. The Proposed Action will mitigate hazardous conditions created by the Fire affecting public health and safety, prevent undue degradation to fire-damaged unique resources within the Fire perimeter and help move the landscape toward pre-burn functionality.

Persons and Agencies Consulted

BLM opened the Project to Tribal authorities for consultation on April 23, 2021 through May 8, 2021. No comments were received. Public scoping and opportunities to comment on the Project were provided from May 10, 2021 through May 25, 2021. Comments received and BLM responses are provided herein after the appeal section.

Decision on Action

I have decided to implement the Proposed Action as described in the CX. In addition, I have reviewed the plan conformance statement and have determined that the Proposed Action is in conformance with the approved land use plan and that no further environmental analysis is required.

Implementation

This Project will be implemented immediately. This is a wildfire management decision under 43 CFR § 5003.1 (b). My decision for issuing this under the Full Force and Effect (FFE) authority is that the emergency stabilization and rehabilitation activities outlined in the CX require immediate implementation to mitigate the detrimental effects of wildfire on soil, water and vegetation resources and to abate hazardous conditions compromising public health and safety.



Digitally signed by JOHN
HUSTON
Date: 2021.07.29 14:28:57 -07'00'

Authorized Officer: _____

Date: _____

John Huston

Field Manager, Cascades Field Office

Contact Person

For additional information concerning this CX review, contact René Wahl, Planning and Environmental Specialist, Cascades Field Office, Northwest Oregon District Office, 1717 Fabry Road SE, Salem, Oregon, 97306 at (503) 375-7962 or rwahl@blm.gov.

Appeal

This wildfire management decision is issued using FFE authority granted under 43 CFR § 5003.1(b) and according to Washington Office Instruction Memorandum No. OR-2003-232. It is effective immediately. This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations in 43 CFR Part 4. If an appeal is taken, your notice of appeal (and petition for stay) must also be filed with the Field Manager John Huston, Cascades Field Office, 1717 Fabry Road SE, Salem, Oregon 97306. An appeal must state clearly and concisely why this decision is in error. You as the appellant have the burden of showing that the decision is adverse to you and is in error. You have thirty (30) days from the date this decision becomes effective to file such appeal.

Notwithstanding the provisions of 43 CFR § 4.21(a), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of this decision. If you wish to file a petition for stay pending the outcome of your appeal of this decision pursuant to 43 CFR 4.21, you must show sufficient justification based on the following standards under 43 CFR 4.21:

- 1) The relative harm to the parties if the stay is granted or denied;
- 2) The likelihood of 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.

Appeal InformationForm 1842-1
(September 2020)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS****DO NOT APPEAL UNLESS**

1. This decision is adverse to you,
- AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE	<div style="border: 1px solid black; padding: 5px;"> <p>John Huston, Cascades Field Manager Cascades Field Office Northwest Oregon District 1717 Fabry Road SE Salem, Oregon 97306</p> <p>Office of the Regional Solicitor Pacific Northwest Region 601 SW 2nd Ave., STE 1950 Portland, Oregon 97204</p> </div>
NOTICE OF APPEAL.....	
WITH COPY TO SOLICITOR.....	
3. STATEMENT OF REASONS	<p>Within 30 days after filing the <i>Notice of Appeal</i>, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i>, no additional statement is necessary (43 CFR 4.412 and 4.413).</p>
WITH COPY TO SOLICITOR.....	
4. SERVICE OF DOCUMENTS	A party that files any document under 43 CFR Subpart 4, must serve a copy of it concurrently on the appropriate official of the Office of the Solicitor under 43 CFR 4.413(c) and 4.413(d). For a notice of appeal and statement of reasons, a copy must be served on each person named in the decision under appeal and for all other documents, a copy must be served on each party to the appeal (including intervenors). Service on a person or party known to be represented by counsel or other designated representative must be made on the representative. Service must be made at the last address of record of the person or party (if unrepresented) or the representative, unless the person, party or representative has notified the serving party of a subsequent change of address.
5. METHOD OF SERVICE	If the document being served is a notice of appeal, service may be made by (a) Personal delivery; (b) Registered or certified mail, return receipt requested; (c) Delivery service, delivery receipt requested, if the last address of record is not a post office box; or (d) Electronic means such as electronic mail or facsimile, if the person to be served has previously consented to that means in writing. All other documents may be served by (a) Personal delivery; (b) Mail; (c) Delivery service, if the last address of record is not a post office box; or (d) Electronic means, such as electronic mail or facsimile, if the person to be served has previously consented to that means in writing.
6. REQUEST FOR STAY	<p>Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a Notice of Appeal (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your Notice of Appeal (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). 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 Interior Board of Land Appeals and to the appropriate Office of the Solicitor (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.</p> <p>Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, 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.</p>

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821-GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Grand Junction, CO and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota, and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ----- New Mexico, Kansas, Oklahoma, and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Headquarters Office, Bureau of Land Management, 760 Horizon Drive, Grand Junction, CO 81506.

(Form 1842-1, September 2020)

Public Comments and BLM Responses – Three Comment Letters*Comment Letter 1: Individual*

Comment 1.1: Comment letter had no footnote 2, and footnotes 3(dead and dying trees, 4 (lidar analysis) and 5 (fish habitat restoration) were not defined.

BLM Response: Although the comment pertains to the Project narrative, it does not identify a concern regarding the Project itself; merely points out omission of footnote explanations in the scoping letter. As such, it is not a substantive comment. Footnotes in the scoping letter were inadvertently omitted.

Comment 1.2: I will assume BLM land is where LUAs are filled in.

BLM Response: The map attached to the scoping letter for this Project shows BLM-managed lands and LUAs.

Comment 1.3: A "dying tree" is defined elsewhere as a tree likely to die within the next few years.

BLM Response: This statement is outside the scope of the proposed Project due to the reference to "elsewhere." For purposes of this CX, a dying tree is defined as a standing tree that has been severely damaged by fire and that in the judgment of an experienced forest professional or someone technically trained for the work, is likely to die within a few years. BLM NEPA Handbook H-1790-1, Appendix 4, page 143.

Comment 1.4: Please have this determination made by a competent, unbiased arborist.

BLM Response: For purposes of this CX, a dying tree is defined as a standing tree that has been severely damaged by fire and that in the judgment of an experienced forest professional or someone technically trained for the work, is likely to die within a few years. BLM NEPA Handbook H-1790-1, Appendix 4, page 143. BLM Foresters are highly trained and experienced in hazard tree identification.

Comment 1.5: I have seen trees make remarkable comebacks from the recent ice storms, as well as prescribed burns.

BLM Response: Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all danger trees that can fall, roll or slide onto roadways must be felled.

Comment 1.6: Large snags have tremendous habitat value for wildlife and also have aesthetic appeal.

BLM Response: BLM would retain a variety of large and small snags and down wood in Project areas left after the Fire.

Comment 1.7: Not all dead/dying trees are a hazard!

BLM Response: Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all danger trees that can fall, roll or slide onto roadways must be felled.

Comment 1.8: Prioritize removal on roads heavily trafficked by cars, not logging roads.

BLM Response: Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all danger trees that can fall, roll or slide onto roadways must be felled.

Comment 1.9: Take into consideration the LUA where the trees are a criterion mentioned in the letter.

BLM Response: BLM will follow RMP management direction and relevant law for hazard trees in all LUAs within the Project area.

Comment 1.10: Leave all or most trees in Riparian Reserves, District Designated Reserves, or Congressionally Reserved Areas (Wild & Scenic Rivers).

BLM Response: BLM will follow RMP management direction in all LUAs within the Project area. Activities within WSR sections would restore, protect and enhance outstanding and remarkable values and if WSR sections and ORVs are not yet designated, BLM would conduct activities that would restore, protect and enhance suitable WSR sections and likely ORVs. Hazard trees in these areas would be removed only if they present danger to public health and safety as explained in the CX. BLM would leave down wood and snags in Project areas left after the Fire.

Comment 1.11: For logging/lesser used roads, consider taking out the road (i.e., decommissioning it) rather than the trees, perhaps converting it to a hiking trail.

BLM Response: Fire lines and roads opened during fire suppression efforts would be decommissioned or closed to re-establish drainage or prevent Off-Highway Vehicle (OHV) use. Because BLM's multiple use and sustained yield mission is in part, to maximize opportunities for commercial, recreational and conservation activities, reducing access to public lands is accomplished on a case-by-case, fact-specific, site-specific basis to promote other resource values and requires a Federal Register Notice for each instance.

Comment 1.12: This is similar to not replacing facilities destroyed by the fires if they are not necessary (i.e., campgrounds).

BLM Response: BLM's multiple use and sustained yield mission is in part, to maximize opportunities for commercial, recreational and conservation activities. Under these mandates, BLM considers campgrounds that existed prior to the fires, necessary public recreation opportunities.

Comment 1.13: I do not understand how cutting down roadside trees will "prevent undue degradation of roadside resource values" (perhaps this was explained in footnote 2).

BLM Response: If there are cultural sites within the 160-foot road buffer, they would be protected from tree failure by removing dead/dying tree(s) and risk of impacting/destroying such cultural sites. The stabilization and rehabilitation activities under this Project would include repairing and installing essential erosion control structures; replacing or repairing existing culverts, roads, trails, fences, and minor facilities; constructing protection fences; planting, seeding, and mulching all of which would prevent undue soil erosion and sedimentation, restore appropriate water flow along roads, keep public out of certain areas with protection fences and begin to re-vegetate areas that had high volumes of burned wood.

Comment 1.14: Trees are the roadside resource value, and ODOT and USFS have been greatly criticized for removing all trees a given distance from the road, even if they are still alive.

BLM Response: Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all danger trees that can fall, roll or slide onto roadways must be felled. Public criticism of ODOT and USFS for removing hazard trees along roads does not change BLM's obligation to follow relevant laws (e.g., Oregon OSHA) or its current RMP management direction.

Comment 1.15: Please do not do this.

BLM Response: BLM has an obligation to follow relevant laws (e.g., Oregon OSHA) and its current RMP management direction.

Comment 1.16: Dead trees enrich the soil, add to stream complexity, and provide wildlife habitat in the form of snags and/or downed wood.

BLM Response: BLM would leave down wood and snags left after the Fire. *See also* Wildlife PDFs pertaining to snags and down wood, PDF ## 44, 45, 46, 48, 50, 52, 53 and 54, which BLM would incorporate into Project implementation.

Comment 1.17: This improves and speeds up the natural recovery of a forest from fire or other natural disasters.

BLM Response: BLM would leave down wood and snags left after the Fire. *See also* Wildlife PDFs pertaining to snags and down wood, PDF ## 44, 45, 46, 48, 50, 52, 53 and 54, which BLM would incorporate into Project implementation.

Comment 1.18: Please leave the felled trees in place or remove them to areas deeper in the forest, or along streams.

BLM Response: BLM would leave down wood and snags in Project areas left after the Fire. *See also* Wildlife PDFs pertaining to snags and down wood, PDF ## 44, 45, 46, 48, 50, 52, 53 and 54, which BLM would incorporate into Project implementation. Burned wood along streams would be removed only if “necessary to maintain access to roads and facilities” (2016 ROD/RMP page 68).

Comment Letter 2: Andy Geissler, American Forest Resource Council (AFRC)

Comment 2.1: AFRC introduction, mission and background.

BLM Response: These are non-substantive comments. As such, no response is required.

Comment 2.2: AFRC is glad to see the Cascades FO proposing danger tree removal on lands impacted by the Riverside Fire. There is opportunity for recovery of trees identified for removal in a manner that will not only address public safety risks but also provide timber products to the local industry and generate income to the BLM. This opportunity can only be realized if implementation of the proposed Categorical Exclusion (CX) is executed in a timely manner and fire-killed timber products are manufactured before their value is lost to decay, stain, or insect damage. We strongly urge you to prepare and implement hazard removal through timber sales as quickly as possible. Timber sales comprised of fire-killed timber will likely be marginally economical if offered later than the summer of 2021.

BLM Response: Thank you for the supportive comments. The Cascades FO is focusing on post fire activities to protect public health and safety and prevent undue degradation to resources in project areas.

Comment 2.3: We hope to see the mitigation of as many hazard trees along as many road miles as possible to ensure safe travel routes.

BLM Response: BLM would remove burned dead and dying trees along roads within 160-foot buffer on each side and hazard trees that could fall, roll or cause other trees to impact roads applying the rubric in *Post-fire Assessment of Tree Status and Marking Guidelines for Conifers in Oregon and Washington*, United States Department of Agriculture, Forest Service, Pacific Northwest Region, Report Number R6-FHP-RO-2020-02. Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all hazard/danger trees that can fall, roll or slide onto roadways must be felled when feasible.

Comment 2.4: We also hope that these trees can be mitigated economically through the recovery of damaged timber products rather than through alternatives that would create costs instead of generating revenue. Standard utilization specifications used on green BLM timber sales will not likely be appropriate for the salvage sales generated from this project. Due to the damaged nature of the timber products being proposed for harvest, there will be an unusually high level of uncertainty by the BLM and prospective purchasers of the actual value of those products on the stump prior to harvest. This uncertainty is exacerbated by the fact that additional time for wood deterioration will elapse between the time of purchase and the time of harvest. Therefore, the BLM should be developing minimum removal requirements and utilization specifications that align with this uncertainty. Purchasers will recover as much value from these damaged products as possible. Required [sic] them to recover value that is not available will reduce the likelihood that these sales will successfully sell.

BLM Response: These comments are outside the scope of this Project because it focuses on removing hazard trees for public health and safety rather than salvage harvest.

Comment 2.5: The scoping notice indicates that the BLM may be considering the option of retaining some level of hazard trees on site as coarse woody debris in some situations. It is likely, given the magnitude and extent of the Riverside Fire, that extensive swaths of standing dead trees will remain on the landscape following post-fire recovery actions across all land allocations. Your RMP direction for hazard tree removal in lands designated as LSR states that BLM "may" retain hazard trees for down woody material. Given the fact that, beyond the road prism, the BLM will not be conducting any timber salvage in LSRs, we believe there will be an excess of both standing dead trees and down woody material in the reserve system beyond what is required in your RMP.

BLM Response: BLM would leave down wood and snags left after the Fire. *See also* Wildlife PDFs pertaining to snags and down wood, PDF ## 44, 45, 46, 48, 50, 52, 53 and 54, which BLM would incorporate into Project implementation.

Comment 2.6: Please consider these areas outside of the proposed roadside hazard removal areas when considering the need to retain additional material on the forest floor. We believe that this scale of consideration will inform the BLM that retaining additional dead material on the forest floor is unnecessary to meeting your RMP requirements and for managing your coarse woody debris resources. Regarding the Harvest Land Base (HLB), the RMP specifically exempts "timber salvage and safety reasons" from down woody material requirements. Plan direction in the HLB also does not specifically include any standards or guidelines for hazard tree removal similar to what is included for the LSR. Therefore, no additional trees should be left on site along roadways for down woody material or disposed of in any other way than through commercial sale in the HLB, as such direction is not noted in your RMP.

BLM Response: BLM would leave down wood and snags left after the Fire. *See also* Wildlife PDFs pertaining to snags and down wood, PDF ## 44, 45, 46, 48, 50, 52, 53 and 54, which BLM would incorporate into Project implementation.

Comment 2.7: Adequate documentation of the Danger Tree Field Guide is advisable given the ongoing challenges by special interest groups against the implementation of hazard tree removal. Recent court rulings have indicated some confusion regarding the use of the Field Guide to identify hazard trees that have potential to impact roads. In particular, there have been questions regarding whether a specific tree poses an "imminent" hazard. Therefore, we recommend that you highlight and outline certain components of your guidelines in the final Decision-Memo/Notice including:

BLM Response: BLM would remove the thousands of burned dead and dying trees along roads within 160-foot buffer on each side and hazard trees that could fall, roll or cause other trees to impact roads applying the rubric in *Post-fire Assessment of Tree Status and Marking Guidelines for Conifers in Oregon and Washington*, United States Department of Agriculture, Forest Service, Pacific Northwest Region, Report Number R6-FHP-RO-2020-02. Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all hazard/danger trees that can fall, roll or slide onto roadways must be felled if feasible. The NEPA review for this Project uses a categorical exclusion authority and the Project is consistent with this authority.

Comment 2.8: Thorough explanation of tree falling dynamics on level ground, including the effects of wind events, force of breakage, and how fallen trees may impact other trees (causing broken tops, etc.);

BLM Response: BLM would remove the thousands of burned dead and dying trees along roads within 160-foot buffer on each side and hazard trees that could fall, roll or cause other trees to impact roads applying the rubric in *Post-fire Assessment of Tree Status and Marking Guidelines for Conifers in Oregon and Washington*, United States Department of Agriculture, Forest Service, Pacific Northwest Region, Report Number R6-FHP-RO-2020-02. Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all hazard/danger trees that can fall, roll or slide onto roadways must be felled. The NEPA review for this Project uses a categorical exclusion authority and the Project is consistent with this authority.

Comment 2.9: Thorough explanation of tree falling dynamics on sloped ground, including the likelihood of downslope trees falling uphill;

BLM Response: BLM would remove the thousands of burned dead and dying trees along roads within 160-foot buffer on each side and hazard trees that could fall, roll or cause other trees to impact roads applying the rubric in *Post-fire Assessment of Tree Status and Marking Guidelines for Conifers in Oregon and Washington*, United States Department of Agriculture, Forest Service, Pacific Northwest Region, Report Number R6-FHP-RO-2020-02. Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all hazard/danger trees that can fall, roll or slide onto roadways must be felled. The NEPA review for this Project uses a categorical exclusion authority and the Project is consistent with this authority.

Comment 2.10: Emphasis on how the Danger Tree Guidelines identify both the "Tree Failure Potential" and the "Potential Failure Zone." Specifically note that any given tree has a Failure Zone and describe how that failure zone is determined.

BLM Response: BLM would remove the thousands of burned dead and dying trees along roads within 160-foot buffer on each side and hazard trees that could fall, roll or cause other trees to impact roads applying the rubric in *Post-fire Assessment of Tree Status and Marking Guidelines for Conifers in Oregon and Washington*, United States Department of Agriculture, Forest Service, Pacific Northwest Region, Report Number R6-FHP-RO-2020-02. Under Oregon OSHA Division 7, 437-007-0500 Roads (6)(a), on those portions of roads under the direct control of the BLM, all hazard/danger trees that can fall, roll or slide onto roadways must be felled. The NEPA review for this Project uses a categorical exclusion authority and the Project is consistent with this authority.

Comment 2.11: The timber products provided by the BLM are crucial to the health of our membership. Without the raw material sold by the BLM these mills would be unable to produce the amount of wood products that the citizens of this country demand. Without this material our members would also be unable to run their mills at capacities that keep their employees working, which is crucial to the health of the communities that they operate in. These benefits can only be realized if the BLM sells their timber products through sales that are economically viable. This viability is tied to both the volume and type of timber products sold and the manner in which these products are permitted to be delivered from the forest to the mills. There are many ways to design

a timber sale that allows [sic] a purchaser the ability to deliver logs to their mill in an efficient manner while also adhering to the necessary practices that are designed to protect the environmental resources present on BLM forestland.

BLM Response: These comments are outside the scope of this Project because it focuses on removing hazard trees for public health and safety rather than salvage harvest.

Comment 2.12: The primary issues affecting the ability of our members to feasibly deliver logs to their mills are firm operating restrictions. As stated above, we understand that BLM must take necessary precautions to protect their resources; however, we believe that in many cases there are conditions that exist on the ground that are not in step with many of the restrictions described in BLM EA's [sic] and contracts (i.e. dry conditions during wet season, wet conditions during dry season). We understand the need for the BLM to protect critical resources through sound measures; however, we do not understand why a calendar-based limitation is being created as opposed to site condition limitations. Using this standard, a purchaser would be unable to haul timber in "dry conditions" on May 31st or "dry conditions" on November 1st. Please consider creating condition-based restrictions to enable purchasers to operate during favorable weather throughout the calendar year. The alternative of establishing firm exclusion dates will severely compromise the likelihood that these damaged trees will be successfully sold and removed.

BLM Response: The BLM applies Project Design Features and Best Management Practices based on field conditions and resource mix in treatment areas. BLM is under a mandate to manage public lands consistent with its current RMP and myriad of laws. These comments are outside the scope of this Project because it focuses on public health and safety through removing hazard trees along roads rather than salvage harvest. *See also* Timber Harvest BMP 11 from the 2016 ROD/RMP, page 159, which states: "Restrict non-road, in unit, ground-based equipment used for harvesting operations to periods of low soil moisture; generally, from May 15 to October 15. Low soil moisture varies by texture and is based on site-specific considerations. Low soil moisture limits will be determined by qualified specialists to determine an estimated soil moisture and texture" (TH 11).

Comment Letter 3, Oregon Department of Fish and Wildlife (Department)

Comment 3.1: The Oregon Department of Fish and Wildlife (department) appreciates the opportunity to provide input into the Bureau of Land Management's Cascades Field Office Emergency Stabilization and Rehabilitation (ESR) roadside hazard tree removal project proposal. The department is charged under ORS 496.012 with the management of Oregon's fish and wildlife resources but does not have direct regulatory authority over their habitat. Therefore, the department relies on collaborative relationships with other agencies, organizations, and private landowners to manage the habitats that are critical for sustaining healthy fish and wildlife populations. In that context, the department provides the following comments and recommendations directly related to the BLM notice: Riverside Roadside Hazard Tree Removal; project # DOI-BLM-ORWA-N010-2021-0010-CX.

BLM Response: These comments are non-substantive; no response is required.

Comment 3.2: Wildland fire has been a natural process on the landscape of the Western U.S. for millions of years. Oregon's fish and wildlife populations have adapted to historical fire regimes and often express a high degree of compatibility to post-fire conditions. Wildlife vigor and abundance are often highly benefitted by the ecological reset of wildland fires in response to nutrient release and food availability (Blake et al. 2009, Hutto 2006), with the response of fish varying, but both are highly dependent on post-fire management strategies. The anthropogenic response post wildfire, including hazard tree management and wide-scale timber salvage, can have substantively affect [sic] the post-fire response of fish and wildlife populations, perhaps as much or more than the fires.

BLM Response: Informative rather than substantive; no response required.

Comment 3.3: Dead and dying trees are relatively rare in modern forest settings, especially in managed stands, and provide an important ecological function for fish and wildlife. The density and size diversity of snags after a severe fire provides habitat for primary cavity nesters such as woodpeckers, which in turn create cavities for species such as bluebirds and forest owls. Bats and other mammals may roost and nest in burned-out hollows and cavities. Large Woody Debris (LWD) on the forest floor provides refugia for amphibians. Two-thirds of wildlife species use snags or woody debris during some portion of their life cycle (Brown 2002).

BLM Response: Informative rather than substantive; no response required.

Comment 3.4: Fish populations can realize a positive post-fire response depending on specific subbasin fire severity and geomorphic status. Falling trees that reach active stream channel [sic] increase stream habitat complexity through hydraulics resulting in stream gravel sorting and pool formation as well as providing hiding cover for fish. LWD in streams greatly increases productive capacity for fish production, releases carbon and other nutrients for food webs, serves as macroinvertebrate cover and assists with managing stream sediment loading.

BLM Response: Informative rather than substantive; no response required.

Comment 3.5: The department understands and supports the need to remove hazard trees to protect human health and safety but encourages leaving as much burned wood on the landscape as possible, particularly in riparian areas.

BLM Response: Thank you for the supportive comments. BLM would leave down wood and snags left after the Fire. *See also* Wildlife PDFs pertaining to snags and down wood, PDF ## 44, 45, 46, 48, 50, 52, 53 and 54, which BLM would incorporate into Project implementation.

Comment 3.6 Standing dead wood supports a variety of terrestrial species and allowing natural succession of burned systems provides for future recruitment of LWD that will be beneficial for creating complexity in aquatic habitats. The department provides the following comments for review.

BLM Response: Informative rather than substantive; no response required.

Comment 3.7: The scoping document shows superscripts throughout the letter presumptively providing additional context (i.e., dead and dying trees 3, lidar analysis 4, fish habitat restoration 5), but only provides a description of superscript 1 defining a "fire perimeter" on the first page of the letter. The department request [sic] clarification on the remaining superscripts included in the document.

BLM Response: Although the comment pertains to the Project narrative, it does not identify a concern regarding the Project itself; merely points out omission of footnote explanations in the scoping letter. As such, it is not a substantive comment. Footnotes in the scoping letter were inadvertently omitted.

Comment 3.8: Roads: Ensure that any modified or new road crossings adhere to the department's fish passage criteria. The department requires that all culverts that are installed on streams that contain native migratory fish comply with Oregon's fish passage laws (ORS 509.585 - ORS 509.910).

BLM Response: BLM would comply with all applicable laws and regulations during Project implementation.

Comment 3.9: Roads: The department recommends consideration of strategic restrictions to motorized vehicle access to reduce erosion impacts and disturbance to elk and deer, especially during late winter, and also during spring/early summer for calving/fawning.

BLM Response: BLM would work with the Department to evaluate specific road segments for motorized vehicle restrictions and consider seasonal elk restrictions. *See Wildlife PDF #55.*

Comment 3.10: Vegetation: The department recommends leaving as much downed wood as practicable on the landscape to benefit fish and wildlife and their habitats. This wood could make its way to riparian areas or provide habitat for aquatic and terrestrial wildlife. The scoping letter states that "some [trees] would be left as down wood and coarse woody debris." The department requests clarification on the amount of wood that will remain in the project area.

BLM Response: BLM would leave down wood and snags left in Project areas after the Fire. *See also Wildlife PDFs pertaining to snags and down wood, PDF ## 44, 45, 46, 48, 50, 52, 53 and 54, which BLM would incorporate into Project implementation.*

Comment 3.11: Vegetation: Provide a 190-foot buffer along fish bearing streams and tributaries to ensure creeks important for ESA-listed winter steelhead and state sensitive-listed cutthroat trout, continue to contain cool, flowing water during the summer months.

BLM Response: BLM would leave down wood and snags left in Project areas after the Fire. *See also Wildlife PDFs pertaining to snags and down wood, PDF ## 44, 45, 46, 48, 50, 52, 53 and 54, which BLM would incorporate into Project implementation. Burned wood along streams would be removed only if "necessary to maintain access to roads and facilities" (2016 ROD/RMP page 68).*

Comment 3.12: Vegetation: The department recommends that the proposed action include an invasive species plan for proposed tree removal areas. Many invasive species proliferate after disturbance. If widespread salvage activities are taking place, the risk of invasive species introduction across the fire footprint will increase.

BLM Response: This Project focuses on removing hazard trees from along roads to ensure public health and safety rather than salvage harvest. All work under this Project includes taking measures to prevent introduction and spread of invasive plants. *See CX PDF # 68.*

Comment 3.13: Thank you for your comments. BLM will consult with the Department as necessary during Project implementation.