



FEMA

FINDING OF NO SIGNIFICANT IMPACT

Dowans Creek Road Relocation
Jefferson County, Washington
FEMA-1734-DR-WA, PW 202

The Jefferson County Public Works Department (the County) has applied, through the Washington State Emergency Management Division (EMD), to the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) for Public Assistance funding to reroute a damaged section of Dowans Creek Road in western Jefferson County. The purpose of the Public Assistance program is to provide financial assistance to state and local governments, federally recognized Tribal governments, and certain private nonprofit entities with the response and recovery from Presidential declared disasters.

A severe storm event in December 2007 caused a landslide that damaged a 360-foot long section of Dowans Creek Road. The road provides access to 53 parcels, tribal resource access, as well as access for commercial timber activities and recreation. The project is located approximately 5 miles south of the town of Forks, Washington. The County is proposing to relocate a portion of the road around the landslide area, approximately 400 feet farther south of the existing road segment. The road relocation would be in Section 1, Township 27 North, Range 13 West, Willamette Meridian (west end of the road at latitude 47.872439, longitude 124.325197, and east end at latitude 47.870478, longitude 124.315575).

The new route would include approximately 2,270 feet of existing gravel road on Rayonier Forest Products ownership and approximately 1,690 feet of newly constructed gravel road on Washington Department of Natural Resources (DNR) ownership. Marbled murrelet habitat conservation measures will be required and have been the subject of consultations with the U.S. Fish and Wildlife Service under the Endangered Species Act, and the DNR, which has a Habitat Conservation Plan for land under its ownership at the project location. Work is expected to take approximately one month. The Proposed Action includes numerous best management practices (BMPs) and avoids any stream crossings. Mitigation to reduce road construction impacts includes the use of existing logging roads to the maximum extent possible, and minimizing the new road construction footprint by keeping the road single lane with pullouts, and clearing the minimum vegetation required for safety.

As required by NEPA and to avoid or minimize potential impacts to marbled murrelet habitat, several alternative routes were considered, as was the alternative of rebuilding the road in its current location. A geotechnical report concluded that the damaged segment of road would continue to be affected by landslides and eventually would need to span the full 750 feet of the landslide feature to be viable. Additionally, rugged topography constrains the location of other possible routes, and those other alternative routes would have considerably greater environmental impacts as well as greater cost, such as numerous stream crossings with new bridges and new culverts.

In accordance with the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 Code of Federal Regulations

[CFR] Part 1500 through 1508), and FEMA's implementing regulations (44 CFR 10.9), FEMA prepared a Draft EA to identify and evaluate potential environmental impacts resulting from the alternatives presented in the EA, and to determine whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI). Alternatives evaluated in the EA include: the No Action Alternative, and the Preferred Alternative (or Proposed Action) toward which FEMA would contribute funding. The proposed action is the environmental preferred alternative as it has the least collective impact of all the alternatives identified. The Draft EA was available for public comment for 30 days. One comment letter was received from DNR that identified agreement with the marbled murrelet mitigation strategy, as outlined in the EA.

CONDITIONS

The proposed project includes numerous Best Management Practices (BMPs) and mitigation measures. In addition, the following conditions apply, and failure to comply with these conditions may jeopardize the receipt of Federal funds:

- 1) Construction on the segment of road within and adjacent to identified murrelet stand (Station 37 and to the east] may occur only on or after August 14, and during the remainder of the nesting season work that generates noise that could affect murrelets in the stand would be restricted to 2 hours after sunrise to 2 hours before sunset. The activities for which this timing restriction would apply include chainsaw work within 135 feet of the murrelet habitat or heavy equipment within 105 feet of the murrelet habitat.
- 2) The new route shall be adequately marked prior to felling of trees and/or operating heavy equipment. Old or obsolete marking shall be removed, relevant marking shall be made so that they are highly visible and spaced appropriately, and on-the-ground orientation by WDNR and/or County staff shall be held with fellers and operators to ensure they understand the layout and what is expected. Proper understanding and communications will help minimize inadvertent removal of potential nest trees, trees that provide cover to potential platforms, and addition trees that help ensure stand integrity. No fellers or equipment operators will work on the project until they have completed an on-the-ground orientation with WDNR and/or the county.
- 3) Only trees within the marked work area shall be felled in preparation for or during road construction. This will minimize the initial loss of potential nest trees.
- 4) Ensure that contractors employ effective sanitation practices for proper disposal of food and garbage with may otherwise attract corvids and increase the likelihood of predation on nesting murrelets and/their chicks.
- 5) In order to monitor the impacts of incidental take, the Federal agency or any applicant (i.e. Jefferson County) must report the progress of the action and its impact on species to the Service as specified in the incidental take statement [(50 CFR 402.14 (i)(3)].
 - a. FEMA shall provide written notification to USFWS describing any incidental observations or evidence of use by murrelets that may be found during the construction period. Electronic correspondence is acceptable for this report.

- b. In order to monitor the impacts of the proposed action and the implementation of the reasonable and prudent measures, FEMA shall prepare a report describing the implementation of the proposed action, including implementation of the associated terms and conditions, and impacts to the murrelet (50 CFR 402.14(I)(3)). The report shall be submitted to the consulting biologist or branch manager of the Washington State Office within 120 days of project completion. Electronic correspondence is acceptable for this report.
- 6) If, during the course of the action, incidental take described in the BiOP is exceeded, FEMA must immediately provide an explanation of the causes of the taking and review with the USFWS the need for possible modification of the reasonable and prudent measures.
- 7) The USFWS is to be notified within three working days upon location a dead, injured or sick endangered or threatened species specimen. Initial notification must be made to the nearest USFWS Law Enforcement Office. Notification must include the date, time, precise location of the injured animal or carcass, and any other pertinent information. Care should be taken in handling sick or injured specimens to preserve biological material in the best possible state for later analysis of cause of death, if that occurs. In conjunction with the care of the sick or injured endangered or threatened species or preservation of biological material from dead animal, the finder has the responsibility to ensure that evidence associated with the specimen is not unnecessarily disturbed. Contact the U.S. Fish and Wildlife Service Law Enforcement Office at (425) 883-8122, or the Service's Washington Fish and Wildlife Office at (360) 753-9440.
- 8) The applicant shall obtain all required local, state and federal permits and approvals prior to implementing the Proposed Action Alternative and comply with any and all conditions imposed.
- 9) Any change in the approved scope of work will require re-evaluation for compliance with NEPA and other laws and Executive Orders.
- 10) In the event that cultural, archaeological or historic materials are discovered during project activities, work in the immediate vicinity shall be discontinued, the area secured, and the State, Affected Tribes, and FEMA notified.
- 11) To ensure compliance with the Migratory Bird Treaty Act, if clearing of the project area and any activity that involves habitat destruction is conducted from April 1 through September 31 (the general bird nesting season), the County shall conduct a pre-construction survey of the project area to determine if there are active migratory bird nests present.
 - a. If an occupied nest is discovered in a tree, shrub or grasses that would be impacted by project activities, construction in the immediate vicinity shall not commence until the bird has completed nesting activities or any coordination exchange with USFWS, to include any necessary permit, has been obtained from USFWS. Documentation of the survey and all communication with USFWS must be provided to FEMA at close-out.

- b. If no nests are found, construction activities shall proceed. Empty or abandoned nests can be removed but cannot be taken into possession without a permit. Permits are not required to remove or alter the structure the nest is built in or on if it is determined to be inactive.

FINDING

FEMA has evaluated the proposed project for significant adverse impacts to climate and climate change, geology and soils, vegetation, fish and wildlife, coastal zone, historic and cultural resources, socioeconomics (including minority and low income populations), floodplains and wetlands.

The results of these evaluations as well as consultations and input from other federal and state agencies are presented in the EA. Based upon the Public Assistance grant application and Final EA, including the Biological Opinion; and in accordance with FEMA's regulations in 44 Code of Federal Regulations (CFR) Part 10 for environmental consideration, including Executive Orders (EO) addressing floodplains (EO 11988), wetlands (EO 11990), and environmental justice (EO 12898), FEMA determined the proposed project will not significantly affect the quality of the natural and human environment. As a result of this FONSI, an EIS will not be prepared (44 CFR Part 10.8) and the project as described in the PA grant application and Final EA may proceed.

APPROVALS



Mark G. Eberlein
Regional Environmental Officer
FEMA Region 10

3-25-13

Date