

Decision and Finding of No Significant Impact

Environmental Assessment:
Ni-les'tun Unit of the Bandon Marsh National Wildlife Refuge Wetland Restoration and
North Bank Lane Improvement Project

Introduction

The U.S. Fish and Wildlife Service (USFWS) and the Federal Highway Administration, Western Federal Lands Highway Division (FHWA) has issued an Environmental Assessment (EA) which discloses the effects of alternatives for the proposed Ni-les'tun Unit of the Bandon Marsh National Wildlife Refuge Wetland Restoration and North Bank Lane Improvement Project in the Bandon Marsh National Wildlife Refuge (Refuge) (USFWS 2009).

Need for and Purpose of the Project

The need for the project is derived from the USFWS mission and Refuge-specific goals and objectives to conserve migratory birds, fish, and federally listed endangered and threatened species. The purpose of the proposed project to restore wetlands in the Ni-les'tun Unit of the Refuge directly addresses this mission, goals, and objectives. The proposed project would fully restore more than 400 acres of intertidal marsh, freshwater marsh, and riparian habitat. The existing human-created pasturelands function as unnatural seasonal freshwater wetlands and support a variety of non-native plants. Fully restoring these areas would return historic tidal influence and provide foraging, roosting, and rearing habitat for a suite of wildlife including migratory shorebirds, waterfowl, and anadromous and resident fishes.

North Bank Lane is a two-lane road that bisects the Ni-les'tun Unit and provides access to local residences, businesses, Refuge headquarters, a Refuge scenic overlook, Coos County boat ramp, and other local roads. The need for improvements to North Bank Lane arises because the road floods and becomes impassable at Fahys and Redd creeks when tides or runoff are high.

The purpose of the proposed improvements to North Bank Lane is to reduce road flooding at Fahys and Redd creeks, permit full implementation of the wetland restoration project, improve fish passage at these crossings, improve the pavement surface, and better accommodate the mixed (bicycle and vehicle) use of the roadway.

Public Involvement

Public comment for this project was solicited as part of project scoping and after the release of the draft EA. Scoping comments were collected on an individual basis by the Refuge Project Leader, at an open house meeting, and during a formal scoping period held from November 5 through December 5, 2008. Eight comments were received during the scoping period. The comments were compiled and addressed in the EA.

The USFWS and FHWA announced the availability of the draft EA and Section 4(f) *de minimis* evaluation on April 23, 2009. A formal comment period to collect public and agency comments on the draft EA and Section 4(f) evaluation was held from April 21 through May 13, 2009. Nine comments were received and were addressed in the *Response to Comments* dated June 5, 2009. A limited number of editorial comments were made in regards to the draft EA. These editorial comments were incorporated directly into the EA. None of the public comments impacted the analysis or conclusions of the EA.

Decision and Rationale

The alternatives carried forward for analysis in the EA included the No Action Alternative and the Preferred Alternative. A summary of each alternative and the reasons for selecting or not selecting the alternatives is provided below.

No Action Alternative

Wetland Restoration:

Under the No Action Alternative, the USFWS would not restore 400 acres of tidal wetlands as detailed in the 1999 EA and Land Protection Plan for the acquisition of the Ni-les'tun Unit of the Refuge (USFWS 1999). This Unit of the Refuge would remain as converted tidal wetlands that are currently degraded leveed pasture and provide limited habitat for fish and wildlife.

Roadway Improvements:

Under the No Action Alternative, North Bank Lane would remain at its current elevation and would continue to be subject to routine flooding, creating safety concerns for motorists. The culverts under North Bank Lane that convey flow from Fahys and Redd creeks would remain undersized, would be impacted by beaver activity, and would continue to exacerbate flooding of North Bank Lane during high rainfall events, high tides, and high river levels. Stormwater would continue to carry contaminant-laden waste from the roadway into local streams and wetlands, degrading water and habitat quality. As the roadway and culverts go untreated, the condition of North Bank Lane's pavement and subgrade would continue to deteriorate from routine flooding, resulting in increasing maintenance costs for Coos County and reduced safety for roadway users. The mix of roadway users would continue to be a concern, with pedestrians and bicyclists continuing to use the travel ways because no shoulders are available. By not addressing the roadway culverts, the USFWS would be unable to fully implement its restoration plan and fulfill the goals for the Refuge set forth in the legislation that created the Ni-les'tun Unit of the Refuge.

The No Action Alternative was not selected because it would not meet the need and purpose of the project. The lack of restoration would not assist the USFWS in meeting its publicly-mandated missions to assist in the recovery of threatened and endangered

species and preserve and enhance wildlife habitat. Additionally, the existing problems associated with routine flooding on North Bank Lane would continue.

Preferred Alternative

The Preferred Alternative has two major components: (1) the restoration of more than 400 acres of tidal wetlands on the Ni-les'tun Unit, and (2) the improvement of North Bank Lane from its intersection with U.S. 101 to Randolph Road.

Wetland Restoration:

The wetland restoration project would occur in two phases, tentatively scheduled to be implemented in 2009 and 2010. In Phase I, the USFWS would work almost exclusively on the interior side of the levees to prepare the site, remove existing irrigation ditches, and create new tidal channels. In Phase II, the levees currently separating the Refuge lands from the Coquille River would be removed, channels would be connected to the river to allow for tidal inundation, levees that protect private property would be improved, tide gates would be removed, and restoration activities at the abandoned cranberry bogs would be completed. The EA provides a full description of the elements of the wetland restoration portion of the project.

Roadway Improvements:

Construction work on North Bank Lane would occur in 2010 and 2011 and would include work from the intersection of North Bank Lane and U.S. 101 to the intersection of Randolph Road and North Bank Lane, a distance of about 2.5 miles. The proposed work would involve minor road widening to meet American Association of State Highway Transportation Officials (AASHTO) recommended standards, improving the road surface, raising the road elevation to reduce roadway flooding at Fahys and Redd creeks, replacing culverts at the two creeks, relocating utilities that are impacted by the work within the ROW, and improving drainage. The EA provides a full description of the elements of the roadway improvement portion of the project.

All road construction activities would occur within County ROW or on easements granted by the USFWS across Refuge lands. Acquisition of private property would not be required. It would be necessary to close North Bank Lane at Fahys Creek and possibly Redd Creek for up to three weeks during construction. This closure would be coordinated with Coos County, and access to local residences and businesses would be maintained through Randolph Road and the eastern portions of North Bank Lane. Except for these road closures, public use of the road would be maintained with up to 30-minute delays.

The Preferred Alternative was selected because it would meet the need and purpose of the project with no significant impacts to the human or natural environment. An explanation of the No Significant Impact finding is provided below.

Finding of No Significant Impact

To determine whether the Preferred Alternative has significant impacts to the environment, thereby warranting the development of an Environmental Impact Statement (EIS), the effects of the Preferred Alternative were evaluated under the Department of Interior NEPA implementing regulations, 43 CFR 200 through 450. This regulation provides guidance for assessing whether effects should be considered significant and, therefore, warranting the preparation of an EIS. Each item is describe in bold below and is followed by an explanation as to whether the Preferred Alternative would constitute a significant effect.

Would the Preferred Alternative:

(a) Have significant impacts on public health or safety.

The Preferred Alternative, particularly the roadway component, will have a beneficial impact on public health and safety, though, given the low traffic volumes, this benefit is not considered to be significant.

(b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

The Preferred Alternative is in close proximity to cultural resources listed or eligible for listing on the National Register of Historic Places. Impacts are not considered significant because the effects have been determined to be not adverse in accordance with 36 CFR Section 800. The Project is located in a National Wildlife Refuge but occurs in degraded wetlands which are not considered ecologically significant.

(c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].

Public comments on the Draft EA indicate that the Preferred Alternative has no controversial effects, nor are there any unresolved conflicts concerning alternative uses of available resources.

(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

Because similar wetland restoration projects have been implemented elsewhere in the state there is limited uncertainty or risk associated with the proposed project.

(e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

Though this is the largest tidal wetland restoration project on record in the State of Oregon, other tidal wetland restoration projects have been implemented in other areas of

the state. As a result, the implementation of the Preferred Alternative is not considered precedent-setting.

(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

The cumulative effects analysis contained in the EA reveals that the Preferred Alternative will not have significant cumulative effects.

(g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.

As discussed in the EA and The Preferred Alternative will have no significant adverse effect on sites listed or eligible for listing on the National Register. The State Historic Preservation Office has concurred with this conclusion.

(h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species.

The Preferred Alternative will “Affect but Not Likely Adversely Effect” species designated as threatened or endangered under the Endangered Species Act. The project will not “adversely modify” critical habitat within the project area.

(i) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

The Preferred Alternative will comply with all applicable Federal, State, and local laws and requirements protecting the environment.

(j) Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).

This project will involve no transfer of privately owned lands to the government. Any negative effects to human populations result from construction activities in the form of minor delays and road closures, both of which will be temporary and would not disproportionately affect low income or minority populations.

(k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).

Extensive consultation has occurred with tribes who have interests in the project area. No Indian sacred sites used for ceremonial use were identified and the tribes are in support of the proposed project.

(I) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).

The proposed project is intended to restore the tidal wetland ecosystem in the refuge. This involves the reestablishment of the native plant species associated with this ecosystem. Disturbed areas associated with roadway work will be revegetated using native species. The revegetated areas will be monitored and adaptive management measures implemented as needed. As a result, the Preferred Alternative will not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species.

Therefore, it is my determination that implementing the Preferred Alternative does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an EIS is not required.

Copies of the Environmental Assessment and Section 4(f) *de minimis* evaluation are available online at <http://www.fws.gov/oregoncoast/bandonmarsh/> and <http://www.wfl.fhwa.dot.gov/projects/oregon/bandon/>. A copy of the EA may also be requested by contacting the Refuge Manager at 541-347-1470.

References:

USFWS (U.S. Fish and Wildlife Service). 1999. Environmental assessment and land protection plan, Ni-les'tun Unit, Bandon Marsh National Wildlife Refuge, Coos County, Oregon.

USFWS (U.S. Fish and Wildlife Service). 2009. Environmental assessment, Ni-les'tun Unit of the Bandon Marsh National Wildlife Refuge Wetland Restoration and North Bank Lane Improvement Project.



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Date