

DECISION RECORD
for
Perpetua Forests Company Right-of-Way Road Construction Project
Analyzed in Environmental Assessment Number #OR-118-08-006

United States Department of the Interior
Bureau of Land Management
Medford District
Glendale Resource Area
Josephine County, Oregon

INTRODUCTION

The Perpetua Forests Company Right-of-Way Road Construction Project Environmental Assessment (EA #OR118-06-006) and Finding of No Significant Impact (FONSI) were published together on February 1, 2008. The BLM received five public comment letters requesting the BLM to consider: 1) construction of a temporary route in addition to the proposed permanent road; 2) a narrower road clearing width; 3) a ridge top location; 4) additional concerns from the construction of the 300 feet of full bench road; and 5) additional site specific maps. The Glendale Resource Area considered these public comments and released the Revised Perpetua Forests Company Right-of-Way Road Construction Project EA and FONSI (EA #OR-118-08-006) on March 24, 2008. The public comment period ended on April 11, 2008. During this time the BLM hosted a field trip to the proposed project site and six public comment letters were received on the Revised EA.

The Bureau of Land Management's (BLM) responses to the comments on the Revised EA are attached to this decision, *Public Comments to Perpetua Forests Company Right-of-Way Road Construction Project Revised EA and BLM Response*, and were considered in reaching a final decision. A copy of the Revised EA, including FONSI, can be obtained from the Grants Pass Interagency Office, 2164 NE Spalding Ave, Grants Pass, Oregon 97526. Office hours are Monday through Friday, 7:45 AM to 4:30 PM, closed on holidays.

This decision conforms with the *Final Supplemental Environmental Impact Statement and Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan FSEIS, 1994 and ROD, 1994); the *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (EIS, 1994 and RMP/ROD, 1995); the *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004); the *Final Supplement to the 2004 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (FSEIS, 2007 and ROD, 2007); and the *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985).

On July 25, 2007, the Assistant Secretary of the Department of Interior signed a new Survey and Manage Record of Decision that removed the survey and manage requirements from all of the BLM resource management plans (RMPs) within the range of the northern spotted owl. The

Medford District has complied with the 2007 ROD. In addition, the District has elected to complete pre-disturbance surveys for former Survey and Manage species consistent with the 2001 Survey and Manage Record of Decision, including subsequent 2001 through 2003 annual species reviews.

A Non-high Priority Site (NPS) analysis evaluated two active red tree vole (RTV) sites affected by the proposed right-of-way (ROW) construction to determine if the RTV sites met the criteria for a NPS rating. The United States Fish and Wildlife Service has concurred that the two active nests meet the criteria for Non-high Priority Sites, and release of the sites for other resource uses would not measurably change the distribution pattern of the remaining active RTV sites.

The proposed project was evaluated for consistency with the Aquatic Conservation Strategy (ACS) of the Northwest Forest Plan ROD (1994) and the Medford District RMP (1995). Based on the analysis in Appendix 4 of the Revised EA, the Perpetua Forests Company road ROW project will not retard or prevent the attainment of the nine ACS objectives and the four components of the ACS.

ERRATTA:

1/ On page 16, under Section 2.3 second paragraph, the following sentence should read “The new permanent road would be identified as road #33-5-17.01.”

2/ On page 20, under Section 2.3.1 Project Design Features, Wildlife, the following sentence should read “For a given situation, the ‘adjacent’ distance is determined by the action agency biologist but is generally considered to be one quarter of a mile. The Authorized Officer has the discretion to have surveys conducted to protocol.”

3/ On page 71, Appendix 2, Question 2, the following sentence should read “An entirely ridge top location road route would not be logistically feasible to meet engineering standards and OSHA safety requirements...”

4/ On page 123, Appendix 6, comment #16, the following sentence should read “...Lowrance-Mattis describes the slopes above the road as averaging 60% above and 70% below the 33-5-7.0 road.”

These four changes to the Revised EA corrects typographical errors and does not change the adequacy of the environmental analysis in the Revised EA.

DECISION

Based on site-specific analysis, the supporting project record, management recommendations contained in the Grave Creek Watershed Analysis (1999), as well as the management direction contained in the *Record of Decision and Standards and Guidelines* of the Northwest Forest Plan (1994), *Medford District Record of Decision and Resource Management Plan* (1995) and *Evaluation of the Medford Resource Management Plan Relative to Four Northern Spotted Owl Reports* (2005), I have decided to implement the Perpetua Forests Company Right-of-Way Road Construction Project as described in Alternative 2.

Alternative 2 entails the approval of Perpetua Forests Company's request to amend O&C Logging Road Right-of-Way Permit M-2000EA and Reciprocal Right-of-Way and Road Use Agreement M-2000 to authorize Perpetua Forests Company to construct, use and maintain a permanent road for long-term management and removal of forest products from their private land in Township 33 South, Range 5 West, Section 20. This 3,609 ft permanent road with a 14 ft running surface will be identified as 33-5-17-01 and is located on Oregon & California (O&C) lands in Township 33 South, Range 5 West, Sections 17 and 20. A gate will be installed near the junction of roads 33-5-18 and 33-5-17.01 prior to October 15 (end of the dry season) of the first operating year. The gate will be purchased, installed and maintained by Perpetua Forests Company commensurate with its designated use. The merchantable timber removed for the road construction within the designated road ROW (40-60 feet) will be sold pursuant to 43 CFR 2812.5-1.

ALTERNATIVES CONSIDERED

The alternatives considered in detail included the No Action Alternative (Alternative 1) which serves as the baseline to compare effects, and the Proposed Action (Alternative 2) which initiated the environmental analysis process. A description of each alternative is found on pages 16-22 of the Revised EA. Additionally Appendix 2 Alternative Development Summary on pages 70-72 of the Revised EA contains a discussion of the alternatives considered but eliminated from detailed analysis.

During the planning process, the Glendale Resource Area evaluated alternate means for Perpetua Forests Company to access their property. In consideration of the absence of available roads and suitable helicopter landing and service areas within 0.75 miles, helicopter logging was considered to be infeasible. The proposed road construction location was found to be the only viable option for Perpetua Forests Company to access their land for the purposes of providing long-term management and removal of forest products.

The Revised Perpetua Forests Company Right-of-Way Road Construction EA contains responses to public comments and the consideration of an alternative for temporary route construction. Consideration of temporary route construction would not lessen or eliminate the potential resource impacts of the proposed permanent road construction. As Perpetua Forests Company explained in their February 22, 2008 letter to the BLM, this road is needed for "long-term management of our timber lands and not for one time access. Management of our land will not stop after harvesting the existing timber, we will need to access this ground for other management activities over time as well as for accessing the next rotation of harvestable timber as it matures." Management includes activities such as site preparation, planting, brush control, fertilization, and thinning. If a temporary route was constructed, Perpetua would need to close the route and then periodically reconstruct the 3,609 ft of temporary route. This would result in more impacts to the environment than permanent road construction.

REASONS FOR THE DECISION

Alternative 2 meets the purpose and need as outlined in the Revised EA. Specifically, this alternative provides reasonable access through BLM-administered land for the long-term management and removal of forest products from private land consistent with the management direction contained in the Northwest Forest Plan, Medford RMP and 43 CFR 2812. This

alternative also complies with laws such as the Endangered Species Act, Clean Water Act, and National Historic Preservation Act.

The effects of Alternative 2 are adequately analyzed in the Revised EA (pp. 22-50 and Appendices 3-4) and supports my determination that the approval of Perpetua Forests Company's request to amend O&C Logging Road Right-of-Way Permit M-2000EA and Reciprocal Right-of-Way and Road Use Agreement M-2000 will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area (Revised EA, Finding of No Significant Impact, pp. 3-10).

In the development of Alternative 2 all practicable means have been employed to avoid and/or minimize environmental harm. The ROW is located on, or within 500 feet of a ridge and occurs in a second growth stand with residual older trees. The useable road width was reduced from the requested 17 feet to the BLM's recommended 14 feet. The road ROW ranges from 40-60 feet depending on topography, location of turnouts, and curve widening. The ROW was marked on the ground by a BLM engineer and wildlife biologist to meet road safety and engineering standards while minimizing the removal of remnant old growth trees and avoiding the known RTV nest trees. Although the ROW will remove 3.5 acres of northern spotted owl habitat within designated critical habitat (OR-32), USFWS issued a Letter of Concurrence on June 13, 2007 that found the Perpetua Forests Company Right-of-Way Road Construction Project was "not likely to adversely effect" the northern spotted owl, or its designated critical habitat. The construction and use of the 3,609 ft of near ridge top road with no stream crossings or headwalls, would result in no measurable sediment reaching the closest fish bearing stream over 1.9 miles downstream of the project area (Revised EA p.80). Additionally, "Use of any of the four possible disposal sites for excess material from end hauling would not result in measurable sedimentation. A perennial stream is adjacent to the Board Tree Quarry; however, end hauled material would be located on a relatively flat ground and would be placed as far from the stream channel as possible, at a distance of at least 100 feet. As a result of the nearly flat topographical features associated with this quarry, there would be no mechanisms for the waste material to enter the stream channel" (Revised EA, p. 33).

Alternative 1 was not selected because it would not meet the purpose and need of the project as outlined in the Revised EA, Chapter 1.

Six letters were received in response to the 15-day public comment period on the Revised EA and FONSI. In addition to the previously noted public comments these comment letters requested BLM to consider: 1) concern of too narrowly defining the Purpose and Need statement; 2) perceived lack of adequate analysis of cumulative effects; 3) potential effects not disclosed from the disposal of end haul material; 4) surveys needed for some survey and manage and sensitive species; 5) disclosure of foreseeable projects; 6) coordination needs with the Oregon Department of Forestry; 7) disclosing the amount of excavated material to be disposed; 8) conducting an economic analysis for Perpetua Forests Company to helicopter log; 9) retaining ROW trees on-site; 10) concern of road stability; 11) concern with scope of the Action Area; 12) concern with inaccurate slope descriptions; 13) explaining the Non-High Priority Site Rating for RTV; and 14) concern with the use of the herbicide glyphosate. Attachment 1 to this Decision Record contains the BLM's response to the comments received on the Revised EA and FONSI.

Comments did not identify an error of law, a demonstrable error of fact, or that the analysis contained in Revised EA Number OR-118-08-006 failed to consider a substantial environmental question of material significance to the action for which the environmental analysis was prepared.

FINDING OF NO SIGNIFICANT IMPACT

Six letters were received during the 15-day review period for the Revised EA and FONSI. These letters did not provide new information, nor did it identify a flaw in assumptions, analysis, or data that would alter the environmental analysis disclosed in the Revised EA or conclusions documented in the FONSI. It is my determination that Alternative 2 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 for significance in context or intensity as defined in 40 CFR § 1508.27. Therefore an environmental impact statement will not be prepared.

EFFECTIVE DATE OF DECISION

This is a land decision on a right-of-way action in accordance with BLM regulations at 43 CFR Subpart 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after service of decision) where no petition for a stay is filed, or 45 days after the expiration of the appeal period where a timely petition for a stay is filed, unless the Director of the Office of Hearings and Appeals or an Appeals Board has determined otherwise in accordance with specified standards enumerated in 43 CFR § 4.21(b).

RIGHT OF APPEAL

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a “party to the case.” (See 43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after date of service. Only signed hard copies of a notice of appeal that are delivered to the Glendale Field Manager, 2164 NE Spalding Avenue, Grants Pass, OR 97526, will be accepted. Faxed or emailed appeals will not be considered.

In addition to the applicant, anyone who has participated in the National Environmental Policy Act process for this project by providing public comments on the environmental assessment will qualify as party to the case. (See 43 CFR § 4.410(b)). However, in order to qualify as an appellant, a “party to the case,” you also have the burden of showing possession of a “legally cognizable interest” that has a substantial likelihood of injury from the decision. (See 43 CFR § 4.410(d)). Furthermore, you may raise on appeal only those issues you raised in comments on the environmental assessment or that have arisen after the opportunity for comments closed. (See 43 CFR § 4.410(c)).

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why

the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for 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.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor, Perpetua Forests Company and the Association of O&C Counties at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations 43 CFR § 4.413(a). At the end of your notice of appeal you must sign a certification that service has been or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413) and specify the date and manner of such service.

The Board will review any petition for a stay and may grant or deny the stay. If the Board takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until the Board makes a final ruling on the case.

CONTACT PERSON

For additional information concerning this decision or the BLM administrative review process contact Michelle Calvert, 2164 NE Spalding Ave., Grants Pass, OR 97526, telephone 541-471-6505; or Marlin Pose, telephone 541-471-6617.

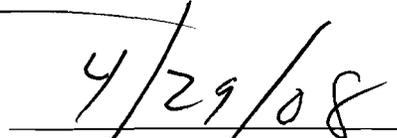
Addresses to serve documents include:

- Glendale Field Manager
2164 NE Spalding Avenue
Grants Pass, OR 97526
- USDI, Office of Hearings and Appeals, IBLA
801 N. Quincy Street, MS 300-QC
Arlington, Virginia 22203
- Regional Solicitor
Pacific Northwest Region, USDI
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232

- Perpetua Forests Company
360 SE "H" Street, Suite "C"
Grants Pass, OR 97526
- Association of O&C Counties
P.O. Box 2327
Harbor, OR



Katrina Symons
Field Manager, Glendale Resource Area
Medford District, Bureau of Land Management



Date

ATTACHMENT 1

PUBLIC COMMENT TO REVISED PERPETUA FORESTS COMPANY RIGHT-OF-WAY ROAD CONSTRUCTION PROJECT ENVIRONMENTAL ASSESSMENT (EA #OR118-08- 006) AND BLM RESPONSE

The Perpetua Forests Company Right-of-Way Road Construction Project was published in the quarterly BLM Medford Messenger beginning in the fall 2005 issue. To provide for public scoping a brief description of proposed projects, legal description and general vicinity map were provided along with a comment sheet for public responses. Although inquiries were made about the project, the BLM did not receive site specific comments.

The Perpetua Forests Company Right-of-Way Construction Project environmental assessment (EA #OR118-06-006) was made available for public comment from February 1 to February 29, 2008. The BLM received five comment letters. As a result, the Glendale Resource Area revised the EA and FONSI to address public comments and hosted a field trip to the proposed project site. Following its release, six public comment letters were received on the Revised EA (EA #OR118-08-006). The BLM's response to these comments are provided below.

If a number of comments are identical or very similar, agencies may group the comments and prepare a single answer for each group. Depending on the volume of comments received, responses may be made individually to each substantive comment or similar comments may be combined and a single response made. The Code of Federal Regulations (40 CFR §1503.4) identifies five possible types of responses for use with environmental impact statements.

1. Modify alternatives including the Proposed Action.
2. Develop and evaluate alternatives not previously given serious consideration by the agency.
3. Supplement, improve or modify the analysis.
4. Make factual corrections.
5. Explain why the comments do not warrant further agency response, citing the sources, authorities or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

George Sexton, Conservation Director, Klamath Siskiyou Wildlands Center

1) Comment: "The Revised EA characterizes the scope of its analysis as determining 'the environmental effects associated with Perpetua Forest Company's request to construct, use, and maintain 3,609 feet of permanent road across BLM Matrix land allocation for long-term management of their private land and removal of forest products.' REA 11". In the above purpose and need statement, that bias takes the form of identifying the purpose of the project as

permanent road construction, across matrix lands for long-term management. The purpose of the project could have just as easily been identified as temporary road construction, to provide reasonable access, across lands designated as critical habitat in an NSO "area of concern" located in one of the few blocks of un-roaded mature habitat in a the 5th field watershed that is currently non-functioning due to the extreme road density.

Response: The Glendale Resource Area clarified the Purpose and Need statement to more accurately describe the request from Perpetua Forests Company to access their land in T33S-R5W-Section 20. As described in their February 22, 2008 letter to the BLM, this road is needed for "long-term management of our timber lands and not for one time access. Management of our land will not stop after harvesting the existing timber, we will need to access this ground for other management activities over time as well as for accessing the next rotation of harvestable timber as it matures." Management includes activities such as site preparation, planting, brush control, fertilization, and thinning. The road can also be use for fire prevention and suppression access.

The BLM did not receive a request for a temporary route to be constructed but did consider an alternative in the Revised EA for a temporary route but did not find it to be feasible. The Purpose and Need accurately presents what Perpetua Forests Company proposes and why the BLM analyzed their proposal.

The 9th Circuit Court of Appeals has considered the issue for analyzing reasonable alternatives. Their ruling in *Native Ecosystems Council v. US Forest Service* (428 F.3d) (9th Cir. 2005) was that "So long as 'all reasonable alternatives' have been considered and an appropriate explanation is provided as to why an alternative was eliminated, the regulatory requirement is satisfied. In short, the regulation does not impose a numerical floor on alternatives to be considered."

2) Comment: *"...the analysis of the cumulative and connected impacts of the private action that will be enabled by the BLM's road construction is wholly absent from the EA." KS Wild quotes the following statement from the Revised Perpetua EA (p.35), "Specific ground disturbance locations on private land relative to Coyote Creek within the harvest unit, are unknown, and it is not known which portions, or to what extent, tractor yarding would be used under this alternative. Therefore the amount of disturbance, subsequent erosion and increase in road density is uncertain." In other words, the BLM cannot, or will not, analyze and disclose the cumulative and connected actions that comprise the sole purpose of the BLM's proposed road construct activities in CHU OR-32.*

Response: The BLM analyzed the potential effects of the proposed activities on public land including potential harvesting methods and road construction (see Chapter 3 for such analysis for Noxious Weeds, Soils and Hydrology, Special Status Wildlife Species (Threatened, Endangered, Sensitive) and Critical Habitat, and Red Tree Voles). The BLM considered activities on private lands in the Medford RMP.

The Revised EA (p. 35) includes the following known information sufficient to determine potential cumulative impacts of Perpetua's proposed actions, "it can be assumed that Perpetua

would tractor yard as much ground as possible from the new spur road. According to Sidle (1980) tractor yarding contributes 20% more disturbed ground than high-lead cable yarding (35% for tractor logging compared to 15% for cable). Harvest activities during this rotation would take place during the dry season (May 15-Oct 15) which would reduce the degree of soil disturbance, and as a result, the amount of erosion available to be transported downslope and into streams. The RMP also acknowledges that land use practices on private may contribute to sediment deposition and that erosion and turbidity may continue to occur (USDI 1994, p. 4-66). As stated in the RMP EIS (p. 4-16) “increases in turbidity and sediment resulting from surface disturbing activities tend to diminish as disturbed areas stabilize and revegetate. This typically takes anywhere from 1-3 years, but can potentially be longer if soil resources have been highly degraded or compacted. It is expected that all operations would not exceed the assumptions in the RMP EIS and would be in compliance with OFPA regulations to reduce erosion and minimize sediment delivery to streams.”

Cumulative effects were analyzed for soils and hydrology on pages 34-37 of the Revised EA and found that effects of both private and federal would not exceed the assumptions within the RMP EIS.

3) Comment: *The contention that “no measurable additional sediment would be expected to reach the closest water source” ignores the impacts of hauling dirt off-site and depositing it in lands allocated as riparian reserves in the Board Tree Quarry Site.*

Response: The BLM provided a field trip to the Perpetua ROW Project on April 10th including the Board Tree Quarry end haul site that is a small turnout at the lower end of a quarry. The material would be placed during the dry season in a stable, nearly flat location. It would be stabilized prior to fall rains by seeding and mulching (Revised EA, p.21). Deposited material would be placed in a location at least 100 ft away from the stream channel and outside of the adjacent well vegetated ditchline, which would cause any minimal amount of material that may become mobile to be filtered out prior to entering the stream channel below. The deposited material would also be placed away from the slope, and the slope below is also well vegetated (EA, p.33). As a result there would be no hydrologic transport mechanism to the stream.

4) Comment: *“...given that the BLM did not conduct surveys for survey and manage and sensitive species that it considers to be “impractical,” there are unknown risks associated with the project.”*

Response: KS Wild did not specify which survey and manage or sensitive species they are referencing. If the comment was in reference to not conducting surveys for fungi, the Revised EA pages 84-85 contains a determination of effects by the proposed project on fungi species. Based on the outcome of utilizing the ‘Likelihood of Occurrence Key’ provided from the BLM Oregon State Office, there is a “low likelihood of occurrence and low risk to species viability or trend toward listing,” for sensitive fungi species potentially located in the Project Area. While it is possible that this project is occurring within potential habitat for some species, there is very little information available describing the *exact* habitat requirements or population biology of these species (USDA/USDI 2004, p. 148). The Revised EA found “the likelihood of a Bureau Sensitive fungi species in this Project Area is very low; the likelihood of a sensitive fungi

occurring within the Project Area is even lower. **The likelihood of contributing toward the need to list is not probable.**”

5) Comment: *The BLM fails to disclose or analyze the hypothesis that road construction through CHU OR-32 may benefit the Barred Owl (a generalist) vis-à-vis the Northern Spotted Owl (an old-growth associated species). The BLM also fails to disclose or analyze the effects of road use in CHU OR-32 on NSO connectivity.*

Response: As noted in the Revised EA, barred owls are already present adjacent to the proposed ROW. “There are 2 spotted owl sites (Board Tree East and Foley Glen) with home ranges (1.3 mile radius from an active owl nesting site or historical activity area) within the proposed road construction. These sites were identified prior to the signing of the Northwest Forest Plan (NWFP) and contain 100 acres to be managed for late-successional characteristics. Board Tree East is within approximately 0.5 miles of the proposed road construction and annual demographic surveys last determined occupation in 1999. Foley Glen is within 1 mile and surveys last determined occupation in 2000. Barred owls have been documented at the Board Tree East and Foley Glen spotted owl site since 1999” (Revised EA p. 38).

The EA further states, “The effects from the ROW road construction on suitable owl habitat in matrix land allocation are expected to be adverse, but not result in a measurable change in the use of forest stands by resident spotted owls due to the small quantity and narrow configuration of habitat removed, the quantity of suitable habitat within the owl sites above viable thresholds, and the possibility that the sites may be vacant of resident spotted owls and used territorially by only barred owls. However, the habitat is suitable for spotted owls, which may re-occupy the sites if the barred owls cease occupation.

The trees in the proposed ROW have functioned as foraging, roosting, and dispersal habitat for the Board Tree East and Foley Glen owl sites. It is expected that the narrow corridor removal of large trees and adjacent smaller trees would maintain opportunity for nesting, roosting, foraging, and dispersal in the effected stand. Nor are the effects expected to result in measurable impacts to the productivity or occupation of the adjacent spotted owl sites. Both of these conclusions are based on the fact that a near ridgetop/upper slope location: (1) is not likely to be selected for nesting or roosting, as owls typically use the lower two thirds of slopes for this (Blakesley et. al., 1992; Hershey et. al., 1998); (2) the opening created for the ROW would be limited to 40-60 ft wide and owls will disperse across roads and forage along edges, (3) most of the ROW is in younger dispersal age habitat, (4) the quantity of suitable habitat within the owl sites are above viable thresholds, and (5) the sparse condition of large trees present and absence of spotted owl nest sites within ¼ mile since Glendale Resource Area began monitoring the owl sites in 1988” (Revised EA “**Northern Spotted Owl Critical Habitat**” pp. 42-43).

The BLM informally consulted with the United States Fish and Wildlife Service (USFWS) and received a Letter of Concurrence (USDI-USFWS 2007 p. 23) that determined the effects to spotted owl, or designated spotted owl critical habitat “may affect, not likely to adversely affect” since the project implements the standards and guidelines of the Northwest Forest Plan and the District’s RMP and will incorporate the mandatory Project Design Criteria (Revised EA p. 44).

6) Comment: *In the multitude of illegal proposals, short-cuts and NEPA violations that the*

BLM has authored to facilitate the conversion of native forests into fiber plantations over the past two decades, never has the agency acknowledged that an action threatens a violation of Federal, State, or local law.

Response: You have not stated how the BLM has violated any Federal, State, or local law, or which law(s) you are referencing for the BLM to adequately to respond to this comment.

7) Comment: *If the BLM intends to use the excavated material from this project to aid with future road and landing activities in the forthcoming "Golden Cedar" old-growth timber sale, that fact must be disclosed and analyzed in this EA. Be advised that our organizations will monitor the future use of excavate material from this project...if the removed material from this road construction will be used for landings and road projects in the Golden Cedar timber sale, then the cumulative impacts of the two projects on this watershed must be disclosed in this document.*

Golden Cedar is still in the initial planning phase (e.g., baseline surveys are being conducted) and subject to change. The 9th Circuit Court of Appeals has considered what is considered reasonably foreseeable in cumulative effects analysis. Their ruling in EPIC v. U.S Forest Service (9th Cir., June 23, 2006) was that the Court would not require the government to do the "impractical" because not enough information is available now on another proposed timber sale to permit meaningful consideration. "[O]nce contemplated actions become more formal proposals, later impact statements on those projects will take into account the effect of the earlier proposed actions" (ibid.).

Richard Nawa, Staff Ecologist, Siskiyou Project (SREP)

8) Comment: *The BLM must name the Oregon Department of Forestry as a cooperator and jointly evaluate the project with respective agency regulations.*

Response: The authority of the Oregon Department of Forestry does not extend to the development or enforcement of projects on federal land. As stated in the Code of Federal Regulations cooperating agencies are identified narrowly to federal agencies for federal actions: "...any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency" (40 CFR 1501.6). The Glendale Resource Area routinely includes the Oregon Department of Forestry on its mailing list for any comments or involvement in proposed projects.

9) Comment: *"...particularly concerned about the high risk lands on adjacent private property that are at high risk for debris flows that could cause significant sedimentation to coho salmon streams and endanger the lives of humans living below the new road."*

Response: As stated in the Revised EA (p. 34-35), there are two perennial streams (Robinson Gulch and Foley Gulch) located within the 80 acre Perpetua Forests Company parcel to be harvested via the proposed 0.7 mile ROW road construction on BLM land..Appropriate Riparian

Management Areas (RMA) would be applied to these streams as guided by the Oregon Forests Practices Act. 'Riparian management area widths are designed to provide adequate areas along streams, lakes, and significant wetlands to retain the physical components and maintain the functions necessary to accomplish the purposes and to meet the protection objectives and goals for water quality, fish, and wildlife set forth in OAR 629-635-0100,' (ODF, 2004)."

As stated in the Revised EA the design of the road would comply with Occupational Safety and Health Administration (OSHA) regulations for safety for a stable road on the landscape. Road construction design on private land would also meet these requirements.

SREP has not identified how the lives of humans would be endangered below the new road for the BLM to adequately respond to this comment.

10) Comment: *Aquifers for domestic water could be destroyed by road cuts and tractor logging.*

Response: The BLM is not aware of any aquifers or aquifers at risk in the Planning Area. SREP does not identify what aquifers would be destroyed and how they "could be destroyed by road cuts and tractor logging."

Boyd Peters, Legacy Lands Project, Wolf Creek, OR; Francis Eatherington, Umpqua Watersheds, Inc.

11) Comment: *Is there any reference to the fact that the first 300 ft of proposed road is within a "Connectivity block" (Section 17)?*

This project is in a connectivity/diversity land allocation. The BLM failed to consider if the requirements of C/D lands are being met.

The BLM must "maintain at least 25 to 30 percent of each block in late-successional forest." The EA failed to disclose if this specification was being met before the 4 acres of right-of-way clearcut occurs. "The size and arrangement of habitat within a block should provide effective habitat to the extent possible." The BLM failed to consider if the new road would diminish the effectiveness of a habitat block.

In this Connectivity Diversity block, the BLM must "Manage to provide ecotypic richness and diversity and to provide for habitat connectivity for old growth dependent and associated species..." The BLM failed to consider how the new road would meet, or not meet this requirement to manage for ecotypic richness.

Response: The proposed road occurs within the Matrix land use allocation. The first approximately 600 feet of road construction within Township 33 South, Range 5 West, Section 17 occurs in a Connectivity/Diversity Block that is a component of the Matrix land use allocation.

The retention of late-successional habitat and components are maintained or exceeded within this

Connectivity/Diversity Block. Review of the Grave Creek Watershed Analysis and current aerial photography shows that the late successional block in T33S-R5W-Section 17 is 85% in late successional habitat condition, which exceeds the 25-30% recommended guideline in the RMP, p. 40.

12) Comment: *The first three hundred feet will end up with 1,000s of cubic yards of material, though the agency is unable or unwilling to quantify the amount or the damage.*

How can the affects of construction and soil disposal be analyzed – there is no real known quantity estimate of how much soil will actually be displaced. The cut-bank at the insertion point of the proposed road's P-line has an 80% slope to cut through to get up to the stated 65% slope area – at a 14% grade with a 60 foot width for 300 ft, that could quite possibly generate a lot more than approximately 6 truck loads.

Response: The volume of excavated material from the first 300 feet of full bench road construction ranges from 1,500-2,000 cubic yards. The combined four end haul sites for depositing this material are more than capable of supporting this volume. As stated in response to comment 3, the slopes of the Board Tree Quarry end haul site are well vegetated to filter any potential material mobilized, the deposit location is 100 ft from any stream channels, and the slope would be seeded to minimize the potential of soil movement. As stated in the Revised EA (p.33), the remaining end haul sites are located completely outside of riparian reserves.

“Disposal of end hauled material at (1) the end of the 33-5-7 road; (2) off the 33-5-18.0 road; or (3) where the proposed road intersects an existing skid trail on the saddle are not expect to result in sediment entering stream channels because of the flat topographical features, proximity of these locations to streams, Project Design Features that reduce winter erosion, and a lack of any other routing mechanisms for waste material to enter stream channels. The 33-5-7 road disposal site is located on nearly flat ground, approximately 250 feet from the closest stream channel. Material placed at this site would be placed in the flat area at the bottom of the cutbank of the existing road to avoid any downslope routing mechanisms for the deposited material. The disposal site along the 33-5-18 road is located on a small ridge with about a 13% maximum slope. The closest stream to this site is over 400 feet away. The disposal site that is located on the skid trail of the ridge that the proposed road would extend over is on less than a 10% slope and over 200 feet from the closest stream. Hauling of excess material from the first 300 feet of full bench construction would result in small amounts of erosion on road surface, and locally in the area immediately downslope of the 33-5-18 and 33-5-7 roads. Small quantities of onsite erosion in the immediate surrounding areas around disposal sites would also occur. Small amounts of eroded material may enter streams from road ditchlines along the end-haul routes but would be of a magnitude to result in a visible increase in stream turbidity, or a measurable increase in the overall stream sediment deposition for more than 25 feet downstream within any stream channels. The overall effects of the proposed action on water quality would be within State of Oregon water quality standards and would not result in any measurable effects on macroinvertebrates or aquatic habitat.”

Boyd Peters, Legacy Lands Project, Wolf Creek, OR

13) Comment: *Aren't most projects in CHUs in the Northwest on hold until biological and legal issues are clarified?*

Response: The BLM completed informal consultation with the USFWS for the Proposed Perpetua Forests Company ROW action on BLM land. The Letter of Concurrence (LOC) from the USFWS (USDI-USFWS 2007 p. 23) determined the effects to spotted owl, or designated spotted owl critical habitat to be “may affect, not likely to adversely affect”. The LOC is not under litigation.

14) Comment: *A helicopter project is dismissed as economically impossible, in the words of the decision makers, “not even close.” Yet there is no significant analysis in the EA to justify that position. There is no economic analysis in the project file as well.*

Response: A helicopter project was considered in the EA and was dismissed. As stated in Appendix 2 of the Revised EA (p.71), “Other private access has been denied. Helicopter logging would not be logistically or economically feasible since there is no existing BLM road access or suitable helicopter landings occur within 0.75 miles of the private harvesting area.” Had there been a helicopter landing located within a logistically feasible distance, the added costs of the operation would be \$400 per 1,000 board feet of timber as compared to a \$175-250 per 1,000 board feet for the Proposed Action for a combination of cable and tractor logging. Moreover, helicopter access does not meet the purpose and need for action as it does not provide access for the long-term management of Perpetua Forests Company private land.

The 9th Circuit Court of Appeals has considered the issue for analyzing potential alternatives. Their ruling in Native Ecosystems Council v. US Forest Service (428 F.3d at 1246) (9th Cir. 2005) was that “an agency’s obligation to consider alternatives under an EA is a lesser one than under an EIS. In rejecting any alternatives, the agency must only include ‘brief discussions of the need for the proposal, of alternatives required...’”

15) Comment: *The agency is aware of much smaller roads designed to minimize impacts in CHUs, notably the Mt. Ashland LSR logging project. Surely they have OSHA’s blessing.*

Response: As stated in the response to comments for the Perpetua ROW EA#OR118-06-006, the Forest Service road is a temporary road with no turnouts unlike the permanent road requested for the Perpetua Forests Company Right-of-Way Road Construction Project.

16) Comment: *If any big trees are to be felled they should be left on site, not sold, so as to move toward restoration of the CHU, which in this area is sorely lacking this essential element, as affirmed by your wildlife biologist. ... “hazard” trees would not necessarily be taken down but topped, adding to much needed snag density. Also the smaller road would require much less herbicides to control noxious weeds. Please quantify.*

Response: The Revised EA (p. 18) states “The road is designed for safety, maintenance, and was marked by a BLM engineer and wildlife biologist to minimize resource impacts. Non merchantable trees felled in the clearing widths or adjacent to clearing widths for safety concerns

would be left as down woody material. The Purpose and Need responds to a request for an amendment to an existing O&C ROW agreement, and falls under the regulations pursuant to 43 CFR §2812.5-1, requiring merchantable trees removed for road construction to be sold.

17) Comment: *Soil stability is a big problem. There was a massive failure just this season requiring heavy equipment, on wet roads, to end haul many yards of material to a hastily chose site. The winter rains have soften a vulnerable road surface near the project area. It is unclear whether most of the damage was done by heavy equipment trying to fix the problem or four wheel drive trucks "recreating".*

Response: BLM is not aware of a "massive failure" on the 33-5-7 road. Heavy snow pack this winter resulted in two trees with root wads to fall onto a portion of road 33-5-7 blocking a ditch line. BLM's road maintenance crew re-opened the ditchline and end-hauled the material on April 16th to a stable ridgetop location.

Tara Lowrance-Mattis, local landowner, Wolf Creek, OR

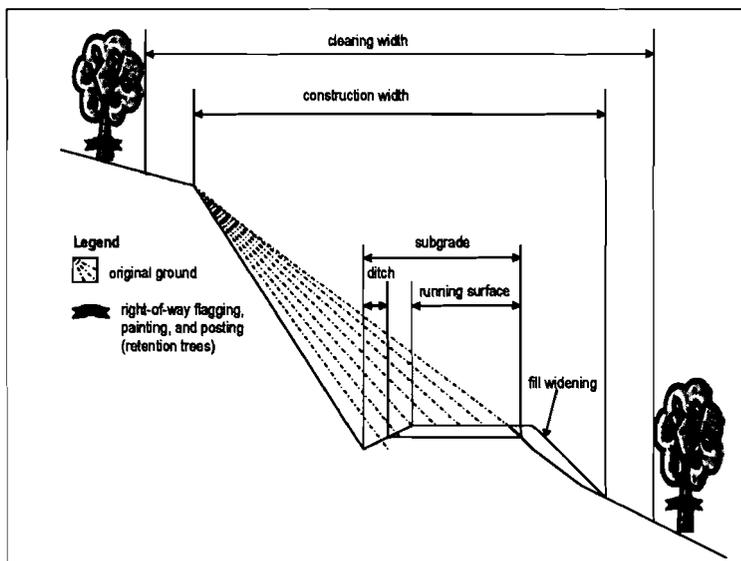
18) Comment: *This EA does not state nor examine the entire Action Area of the project, therefore it has not adequately analyzed it's effects. 'Action area' means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR 402.02).*

Response: The Code of Federal Regulations (CFRs) is a "codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the federal government" (50 CFR,v). The citing of 50 CFR §402.02 applies to interpretation and implementation of the Endangered Species Act of 1973. The USFWS and National Marine Fisheries Service are the federal agencies that administer this Act. The BLM has met its statutory obligation by consulting with both agencies on ESA species. These agencies determine the "action areas" for those listed species. The BLM, however, is responsible for administering the National Environmental Policy Act, which is codified under 40 CFR Part 1501.

The cumulative effects analyzed the affected environment at the small and large scale. This public comment does not identify the element of the affected environment that was overlooked.. The scale of anlysis is defined by the Medford District. For example, water quality, as stated on p.34 of the Revised EA, "the cumulative effects analysis is scaled out from the project level HUC 7 scale, to the HUC 6 or HUC 5 watershed scale, until the point that any effects on water quality and other beneficial uses are no longer detectable. If a project has no detectable effects at the HUC 6 sub-watershed scale, than the project would not have detectable effects downstream at the HUC 5 watershed scale. As such, that project cannot incrementally add to effects occurring as a result of other projects in the HUC 5 watershed, no matter what the current condition of that HUC 5 watershed. Since this project is located within several HUC 7 drainages of the Wolf Creek HUC 6 sub-watershed, it is analyzed using a combination of past and proposed direct and indirect effects, as well as the foreseeable effects of any other current or potential future, federal or non-federal projects at the HUC 6 sub-watershed scale." Therefore, the Revised EA sufficiently analyzes the potential resource effects of the Proposed Action.

19) Comment: *The project description, 3.3.1 Affected Environment Soils and Hydrology, and elements 3, 7, 8, and 9 of the Aquatic Conservation Strategy consistency analysis state that activities will take place in existing road prisms, therefore will have no or minimal effect. This contradicts the flat topology/topographic feature descriptions in the project design features and declarations of 40-65% slopes in the project area because there cut-and-fill existing roads have cut bank slopes up to 100% and fill slopes up to 90% within their prisms, which do cross a fishbearing stream and numerous runoff channels continuously connected to Board Tree and Wolf Creeks.*

Response: Roads and natural benches do have steeper gradients that interrupt the general topography briefly and can approach 100% slopes. However, this does not alter the general topography in the area at 40-60%. The proposed action would not be affecting this part of the existing environment; therefore, it would not add value to the decision making process to note these slopes. The area to evaluate for this analysis is what potential impact may occur on the landscape for the proposed road construction. The commenter notes existing roads crossing fishbearing streams. However, the proposed road construction location would not cross any intermittent or perennial streams. The end-haul sites would not contribute sedimentation into fishbearing streams (see response to comment 3 regarding the Board Tree Quarry end haul site and the Aquatic Conservation Strategy analysis in Appendix 4 (p. 91), “Disposal of the end hauled material at the end of the 33-5-7 road, the 33-5-18.0 road, or where the proposed road would intersect the existing skid trail on the saddle, are not located within riparian reserves.”



20) Comment: The commenter disagrees with the Revised EAs notation that “the Proposed Action is not located in an area designated as Rural Interface (RMP, map 13).” The commenter notes the Grave Creek Watershed Analysis states, “A more site-specific examination of this watershed resulted in additional areas potentially deserving special consideration because of nearby residents and other concerns” and notes the Federal Interagency National Fire Plan notes Wolf Creek as funded fuel reduction projects in the rural interface. The commenter is concerned

about adjacent landowners conservation easements and watershed restoration programs, domestic and agricultural water supplies and believes as such that the project is “highly controversial”.

Response: The Rural Interface Area (RIA) is designated by the Medford District Resource Management Plan (page 88 and Map 13). The Proposed Action is not located in an area designed by the RMP as a managed rural interface area.

Ms. Lowrance-Mattis has not stated how the Proposed Action would harm conservation easements and watershed restoration programs, domestic and agricultural water supplies for the BLM to adequately respond to the comment.

The 9th Circuit Court of Appeals has considered the use of the term “highly controversial.” Their ruling in *Native Ecosystems Council v. US Forest Service* (428 F.3d) (9th Cir. 2005) was that “A project is ‘highly controversial’ if there is a ‘substantial dispute [about] the size, nature or effect of the major Federal action rather than the existence of opposition to a use...Simply because a challenger can cherry pick information and data out of the administrative record to support its position does not mean that a project is highly controversial or highly uncertain.”

21) Comment: “Consistency with the Northwest Forest Plan ROD Aquatic Conservation Strategy and the recommendations of the Grave Creek Watershed Analysis, and the “Not Affected” determination for the Critical Environmental Element Threatened or Endangered Fish Species or their Habitat, Southern Oregon/Northern California Coast coho salmon. If the proposed road construction site alone was the Action Area, the FONSI might be viable. However, the Action Area is much larger, steeper, interlaced with stream channels and riparian reserves, and more involved with hydrologically active unstable soils than this EA has analyzed for.”

Response: See response to comment 18 regarding the definition of “Action Area” for assessing environmental affects to Threatened and Endangered Species. Consistency with the Northwest Forest Plan Record of Decision and Aquatic Conservation Strategy is limited to actions on BLM managed land. As stated in response to comment 9, activities on private land would meet the Oregon Forest Practices Act designed to meet state and local laws including the Clean Water Act. The proposed road construction would not be located in an unstable site and depositing of excavated material and the road construction on BLM managed lands would not affect the stability of the surrounding landscape.

22) Comment: The commenter misunderstood the purpose for the BLM project hydrologist utilizing Google Earth to as part of the examination of the larger landscape topography. The commenter believes on-the-ground stream surveys are needed to determine stream classification, continuity, and periodicity “to adequately determine if the streams are close enough to intercept sediment and carry it into the headwall swale below the road end site and into the SONC coho EFH of Wolf Creek.”

Response: Since there is no mechanism to transport sediment from the end haul site at the end of the 33-5-7 road to stream channels located over 250 feet below; performing ground truthing

stream surveys would not provide any additional information for analyzing potential affects to the environment. The end haul site is completely outside of any riparian reserves. The character of the stream is not the important factor in this case, since there would be no change in the sediment regime of any streams or the stream morphology. If a transport mechanism was present, then determining stream classification (ephemeral, intermittent, or perennial), continuity, and periodicity would provide value in determining the extent of potential sedimentation and subsequent impacts to aquatic species. The purpose for utilizing Google Earth was for the BLM project hydrologist to evaluate the bigger picture of the overall topography and drainage patterns of the landscape on BLM and private land. In doing this, the project hydrologist could confirm conclusions made during the site visit, that the proposed disposal site at the end of the 33-5-7 road was in fact located on a convex or planer slope where drainage patterns would not become concentrated.

Francis Eatherington, Umpqua Watersheds, Inc.

23) Comment: *The EA contained at least three mistakes that should be corrected.*

On page 30, the EA says, "The proposed road construction and haul is located in the upper portions of the hillslope and along a ridge." The road never traverses along a ridge. It crosses a ridge once, but otherwise, it is entirely on a side slope. The proposed road is never located "along a ridge."

On page 30, the EA says: "Slopes within this Project Area are generally less than 40%..." This is wrong. After the hairpin turn, the slopes were always over 40%. We measured slopes up to 47%. The vast majority of the road is over 45%. The EA must be corrected so that it does not claim that most of the road is "less than 40%". Just change the word "less" to "more".

Page 32 must also be corrected. There the EA claims, "Slopes on the south side of the ridge, where a majority of the construction activities would occur, are generally less than 35%." We took a number of measurements with the BLM during our field trip, and the slopes were always greater than 40%, and often greater than 45%. It was only a gentle 35% once, right after the proposed road crossed the ridge.

Response: Topographically speaking though the road is not located directly on top of a ridge, it is located within 500 ft of the top of the ridge. Within this vicinity, the road location would hydrologically function the same as a ridge line location.

The Revised EA states the slopes of the Project Area are generally less than 40% and the majority of the construction activities would occur on slopes generally less than 35%. The slope at different point locations vary slightly above and below this slope percentage; however, the difference is not such as to alter the impact analysis or its conclusions.

24) Comment: *The new road will not be graveled. The potential for sediment runoff is greater on native-surface roads. For instance, when rain happens during the dry season, Perpetua might not police it's own shut down in time, especially if a shutdown could affect their profit margin. The BLM is short-staffed, so we cannot depend on them to order Perpetua to stop using their*

road if wet weather happens during the otherwise dry season.

If a dry-spell occurs during the otherwise wet season, Perpetua could begin using the native-surface road, and not stop in time when normal weather returns.

There will be a gate on the new road, but Perpetua is not penalized if they fail to close or lock the gate. The BLM district is full of roads with open gates. The EA failed to consider all the impacts that occur along ungated, native-surface roads, such as OHV abuse or timber theft. On our field trip we observed a half a dozen cedar trees that had recently been cut and stolen. The BLM told us there was so little law enforcement, even timber theft goes uninvestigated.

Response: The Revised EA (p.21) states, “Should the constructed road be needed for hauling during wet conditions, the amendment to the reciprocal right-of-way agreement with Perpetua Forests Company would require durable rock of sufficient depth present across the road surface to prevent road damage, offsite erosion, or stream sedimentation as determined by the Authorized Officer.”

Perpetua Forests Company will be held to the standards of the Oregon Forest Practices Act which were designed to keep projects in compliance with federal and state laws, including the Clean Water Act. Moreover, there is no hydrologic connection to the proposed road location to serve as a mechanism to carry sediment off-site (Revised EA, pp. 32-37).

It is not logical to presume that Perpetua Forests Company will “fail to close or lock the gate.” Perpetua Forests Company will have a significant financial investment in this road and will manage the gate appropriately to protect that investment, as well as to prevent unauthorized access to their private property for which they also have a significant financial interest.

Timber theft is reported to BLM law enforcement officers as it is discovered. Investigations are conducted on a priority basis.

25) Comment: *Building a new road through the 10-acre protection zone for two Red Tree Vole sites violates RTV Management recommendations. The EA claims that a road can be built through the RTV reserve because the RTV nests are “non-priority” sites. However, the RTV nests looked important to me. The EA failed to disclose what criteria was used to determine non-priority status.*

Response: It is the intent of the RTV Management Recommendations to maintain a level of flexibility for interdisciplinary teams to provide management of the species in the context of other Northwest Forest Plan goals (IM OR 2000-086). A Non-high Priority Site (NPS) analysis process (BLM IB-OR-2001-273, BLM IM-OR-2006-047) was initiated on April 25, 2007 by the Glendale Resource Area Field Manager to evaluate RTV sites as Non-high Priority Sites and to ensure species persistence. The above IMs (Information Memorandums) and IB (Information Bulletin) are public accessible documents. The 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guideline* provides several situations where specific projects may be exempted from the Standards and Guidelines. These provisions are varied, and are intended for

very specific sets of conditions. The identification of Non-high Priority Sites (Standards and Guidelines, Page 10) is one such example (Revised EA p. 49). A Non-high Priority Site (NPS) analysis evaluated two active red tree vole sites affected by the proposed ROW construction to determine if the RTV sites met the criteria for NPS rating. The USFWS has concurred that the two active nests meet the criteria for as Non-high Priority Sites, and release of the sites for other resource uses would not measurably change the distribution pattern of the remaining active RTV sites (Revised EA p. 52).

26) Comment: *The EA documents that Glyphosate would be sprayed in the right-of-way (page 27), to within 250 feet a stream and 300 feet from the drinking water reservoir (assuming the herbicide would be sprayed to the edge of the disturbed area). Since the road will be used on a regular basis, tons of Glyphosate could get sprayed above the drinking water source, and without the residents even knowing when it was being sprayed. Glyphosate can't be good for anybody's drinking water source.*

"While pure Glyphosate has a low acute toxicity (the amount needed to cause death), when it is sold as a commercial herbicide it is combined with surfactants and other ingredients to make it more effective at killing plants. Studies show that the commercial products, such as Round Up, can be three times more toxic than pure glyphosate."

The EA should have considered the impacts of Glyphosate downhill from the application site. Included should be an analysis of what could happen if the operator makes a mistake – mixes the formula wrong, or sprays before a rainstorm, or spills herbicides on the downhill side of the road. The person spraying the chemical will likely not know there is a drinking water supply so close, so could just shrug off a mistake.

"In California, where there is a mandatory system of reporting pesticide poisoning, Glyphosate is the third most common cause of pesticide illness in farm workers. It is the most common form of reported pesticide poisoning in landscape gardeners.

Two separate studies in Sweden have linked exposure to Glyphosate to Hairy Cell Leukemia and Non Hodgkins Lymphoma. These types of cancers were extremely rare, however non-Hodgkins lymphoma is the most rapidly increasing cancer in the Western world. It has risen by 73% in the USA since 1973. Another study has found a higher incidence of Parkinson disease amongst farmers who used herbicides, including glyphosate.

Other studies show that Glyphosate and commercial herbicides containing Glyphosate cause a range of cell mutations and damage to cell DNA. These types of changes are usually regarded as precursors to cancer and birth defects...."

While on the field trip, The BLM said that Glyphosate never moves far in the soil. However, there are those that disagree.

"The proponents of Glyphosate herbicides promote them as environment friendly or benign. They say that they breakdown very quickly in the environment.

The facts show otherwise. A report from The United States Environmental Protection

Agency states that Glyphosate is 'extremely persistent under typical application conditions'. It is one of the most residual herbicides, with studies in Sweden showing that one application can last up to 3 years."

Other reproductive effects and environmental effects are attributed to Glyphosate.

Cabbage Lane water source is only 300 feet away from the spraying. Even ground applications can travel further than that. "Glyphosate spray drift from both ground and aerial applications has been measured from 400 to 800 meters from the target site." This drift is possible since the reservoir is down hill from the spray, and the adjoining Perpetua land will be clearcut, with no intervening vegetation.

Response: The Medford District BLM has analyzed the effects of glyphosate application on public land under the Integrated Weed Management Plan and Environmental Assessment (EA OR110-98-14) tiered to the Northwest Area Noxious Weed Control Program EIS (December 1985) and Supplement (March 1987).

The application of herbicides require the strict adherence to Oregon Department of Agriculture's licensing, reporting and record keeping requirements (refer to website: oregon.gov/ODA/PEST/ for more information concerning these requirements). Additionally the BLM is requiring within 24 hours of application of glyphosate, a Pesticide Application Record (PAR) to be completed and sent to the Glendale Resource Area Weed Coordinator.

Glyphosate is one of four herbicides approved to be used on BLM-administered land. Additionally Glyphosate is registered with the Environmental Protection Agency (EPA) and was found to pose no unreasonable risk to human health or the environment.

27) Comment: *Our original comments asked the BLM to consider the impacts of building a new road over mine shafts, and if the shaft was strong enough to hold logging trucks. The revised EA responded that "The mining audit is not located within the proposed road construction location, therefore; the proposed construction would not pose an additional risk to public health or safety." (page 6). It is true that the audit is not within the proposed road construction location, but the mineshaft could be. The BLM failed to consider the safety of building a new road over a mineshaft that could be near the surface.*

Response: As stated in response to comment 9 and in the Revised EA the design of the road would comply with Occupational Safety and Health Administration (OSHA) regulations for safety for a stable road on the landscape. Road construction design on private land would also meet these requirements.

28) Comment: *Right-of-Way Avoidance Areas include 179,800 acres of Medford BLM lands. The EA failed to disclose if this road was in an avoidance area. "Rights-of-way may be granted in avoidance areas when no feasible alternate route or designated rights-of-way corridor is available."*

Response: The Medford District Resource Management Plan (RMP) notes "avoidance areas" on pp. 82 and 83 as the following located on BLM managed lands:

- Recreation sites (existing and proposed);
- Areas of critical environmental concern (not designated as research natural areas);
- Scenic and recreational rivers (those found suitable for designation and those already designated);
- Sensitive species habitat;
- Visual resource management Class II areas;
- Known wetlands; and
- Late-successional reserves.

The Perpetua Right-of-Way Road Construction Project Area is not located within any of the above locations. The items above were addressed in the Revised EA and Finding of No Significant Impact (see page references to the Revised EA below per bulleted items listed directly above)

There are no proposed or existing developed recreation sites as identified in the Medford District RMP (pp. 6 & 81); no Areas of Critical Environmental Concern present (p.73); no scenic and recreational rivers (those found suitable for designation and those already designated) present (pp.6 & 79); the potential impacts to sensitive species habitat are described (pp. 45-47 & 82, 84-86); no Visual Resource Management Class II areas present (p.89); no known wetlands present (pp.6, 97); and no Late-Successional Reserves present (pp.1, 3, 9, & 11-12).