



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Coos Bay District Office

1300 Airport Lane, North Bend, OR 97459

Web Address: <http://www.blm.gov/or/districts/coosbay>

E-mail: BLM_OR_CB_Mail@blm.gov

Telephone: (541) 756-0100 Toll Free: (888) 809-0839 Fax: (541) 751-4303



IN REPLY REFER TO

5400/1792 (ORC040)

ORC00-TS-2013.0035

Bottom's Up CT

EA# OR128-07-01

Slater Rocks Environmental Assessment

December 11, 2012

Dear Concerned Citizen:

We have prepared the Decision Documentation for the *Bottom's Up CT* Timber Sale, ORC00-TS-2013.0035. The *Bottom's Up CT* Timber Sale is a portion of the Proposed Action of the Slater Rocks Environmental Assessment (EA).

We have posted the Decision Documentation on the District Internet site: <http://www.blm.gov/or/districts/coosbay/plans/index.php>.

Please direct requests for copies, questions, or comments to Coos Bay District BLM, 1300 Airport Lane, North Bend, Oregon 97459-2000; call (541) 756-0100; FAX (541) 751-4303, or email to BLM_OR_CB_Mail@blm.gov, ATTN: Aimee Hoefs.

Sincerely,

/s/ Kathy Hoffine

Kathy Hoffine

Myrtlewood Field Manager



United States Department of the Interior

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EA# OR128-07-01

Slater Rocks Environmental Assessment

Decision Documentation For the Bottom's Up CT Timber Sale (ORC00-TS-2013.0035)

Background

The Myrtlewood Field Office, Coos Bay District of the Bureau of Land Management (BLM), previously prepared an Environmental Assessment (EA# OR128-07-01; Slater Rocks Environmental Assessment) which contained analysis of effects of conducting density management thinning within the project area as well as analysis of a No Action Alternative. This EA, which is hereby incorporated by reference, resulted in a FONSI (Finding of No Significant Impact) signed May 16, 2008.

The BLM previously offered this sale as OR120-TS09-31 *Rock Bottom CT*; the sale was sold on January 30, 2009.

The purchaser of the *Rock Bottom CT* Timber Sale forfeited their cutting and removal rights when the sale contract expired on March 3, 2012. The BLM is now re-offering the 34 acres of unharvested timber.

The following table shows the acreage and unit number progression from the EA to the two subsequent timber sales, *Rock Bottom CT* and *Bottom's Up CT*.

EA Unit Number	EA Acreage Estimate*	Rock Bottom Unit Number	Rock Bottom Unit Acreage	Bottom's Up Unit Number	Bottom's Up Unit Acreage
URC 25	22	1	22	1	17
URC 02	7	2	6		
URC 02	13	3	11		
URC 01	44	4	22	2	10
URC 17	7	5	8	3	7
URC 18	5	6	4		
URC 19	11	7	11		
Acreage Total			84	Acreage Total	
				34	

*The acreage difference between the EA and the first sale is the result of field verification of unit boundaries and final road locations.

Proposed Action

The *Bottom's Up CT* Timber Sale will implement thinning within the Matrix and Riparian Reserve land use allocations. The original purchaser has completed all of the new road construction, renovation/maintenance, and 0.36 miles of decommissioning. This timber sale will include the decommissioning of the remaining 0.78 miles of newly constructed and renovated roads.

The BLM estimates that 0.43 MMbf is available for harvest. There are approximately 30 acres of commercial thinning and 4 acres of density management thinning in the *Bottom's Up CT*. Snags and down wood will be created in all units.

The EA included a complete list of Project Design Features (pp. 24-30) which are measures to avoid, minimize, or rectify impacts on resources, and are included as part of the Proposed Action. These and additional descriptions of the Proposed Action are hereby incorporated by reference. The following is a brief summary of some of the Design Features:

- Stream channels will have a minimum 50-foot no-harvest buffer.
- All units will be harvested using a combination of skyline cable and ground-based equipment.
- Snag and/or down wood will be created where applicable.
- Cable yarding is required with one-end or full suspension.
- All road work activities will use applicable Best Management Practices as described in the RMP.
- Where applicable, daily timing restrictions will be used to minimize disturbance to nesting wildlife species.

Compliance and Conformance

The BLM developed the Slater Rocks EA under the management direction of the *1995 Coos Bay District Record of Decision and Resource Management Plan* (1995 ROD/RMP). The analysis supporting this decision tiers to the *Final Coos Bay District Proposed Resource Management Plan/Environmental Impact Statement* (USDI 1994). The 1995 *Record of Decision* is also supported by, and consistent with, the *1994 Final Environmental Impact Statement on Management of Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* and its associated *Record of Decision* (USDA/USDI 1994).

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest et al. v. Rey et al.*, No 08-1067-JCC (W.D. Wash.) (Coughenour, J.) granting Plaintiffs' motion for partial summary judgment and finding NEPA violations in the *Final Supplement to the 2004 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Management Standards and Guidelines* (USDA/USDI, June 2007). In response, parties entered into settlement negotiations in April 2012, and the Court filed approval of the resulting Settlement Agreement on July 6, 2011. Projects that are within the range of the northern spotted owl are subject to the survey and manage standards and guidelines in the 2001 ROD, as modified by the 2011 Settlement Agreement.

The *Bottom's Up CT* Timber Sale applies a 2006 Exemption from a stipulation entered by the court in litigation regarding Survey and Manage species and the 2004 Record of Decision related to Survey and Manage Mitigation Measure in *Northwest Ecosystem Alliance v. Rey*, No. 04-844-MJP (W.D. Wash., Oct 10, 2006). Previously, in 2006, the District Court (Judge Pechman) invalidated the agencies' 2004 RODs eliminating Survey and Manage due to NEPA violations.

Following the District Court's 2006 ruling, parties to the litigation entered into a stipulation exempting certain categories of activities from the Survey and Manage standards and guidelines, including both pre-disturbance surveys and known site management.

Also known as the Pechman Exemptions, the Court's Order from October 11, 2006 directs:

“Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities on projects to which the 2004 ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004) except that this order will not apply to:

- a) Thinning projects in stands younger than 80 years old;*
- b) Replacing culverts on roads that are in use and part of the road system, and removing culverts if the road is temporary or to be decommissioned;*
- c) Riparian and stream improvement projects where the riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement of large wood, channel or floodplain reconstruction, or removal of channel diversions; and*
- d) The portions of a project involving hazardous fuel treatments where prescribed fire is applied. Any portion of a hazardous fuel treatment project involving commercial logging will remain subject to the survey and management requirements except for thinning of stands younger than 80 years old under subparagraph a. of this paragraph.”*

Per the 2011 Settlement Agreement, the 2006 Pechman exemptions remain in force:

“The provisions stipulated to by the parties and ordered by the court in Northwest Ecosystem Alliance v. Rey, No. 04-844-MJP (W.D. Wash. Oct 10, 2006), shall remain in force. None of the following terms or conditions in this Settlement Agreement modifies in any way the October 2006 provisions stipulated to by the parties and ordered by the court in Northwest Ecosystem Alliance v. Rey, No. 04-844-MJP (W.D. Wash. Oct 10, 2006).”

I have reviewed the NEPA document for the *Bottom's Up CT* Timber Sale project and have determined it is consistent with the Coos Bay District Resource Management Plan as amended by the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (2001 ROD), as modified by the 2011 Settlement Agreement. The project is exempt from surveys (Pechman; thinning in stands less than 80 yrs. of age; Table III-1, EA pp. 33-34).

The BLM requested formal and informal consultation with the U.S. Fish and Wildlife Service (Service) for evaluation of effects to the northern spotted owl and the marbled murrelet in June 2008. On July 30, 2008, the BLM received a Biological Opinion in which the Service concurred with the District's effects determination and states that the Proposed Action “would not jeopardize the continued existence of the spotted owl or the marbled murrelet¹.”

Consultation with the National Marine Fisheries Service is not required, as the *Bottom's Up CT* Timber Sale has been determined to have “no effect” to threatened Oregon Coast coho salmon and its associated critical habitat. Additionally, project activities will not result in adverse effects to Essential Fish Habitat under the Magnuson-Steven Fishery Conservation and Management Act (16 U.S.C. 1855 (b)).

Analysis has also concluded that the implementation of the Proposed Action will not increase the likelihood of or need for listing of any Special Status Species under the ESA as identified in BLM Manual 6840 and BLM OR/WA Policy. Botany Special Status Species surveys are complete on all units for species for which surveys are practical and are included in the 2011 State Director's Special Status Species list.

This project complies with the Coastal Zone Management Act and I have determined that there will be no adverse effects to Coastal Zone resources from implementing this project. There will be no effects to water quality (EA pp. 53-59).

¹ Biological Opinion and Concurrence on the Slater Rocks Density Management Project (FWS 13420-2008-F-0098).

The Slater Rocks EA is compliant with the Clean Water Act, the National Historic Preservation Act, and the Clean Air Act. The project area does not contain any Areas of Critical Environmental Concern, designated Wilderness, Wild & Scenic Rivers, or prime and unique farmlands. There were no concerns identified regarding Cultural Resource Values, Native American Religious Concerns, or Environmental Justice Issues.

The Slater Rocks EA (OR-128-07-01) resulted in a Finding of No Significant Impact (FONSI), thus development of an Environmental Impact Statement (EIS) is not required.

Public Involvement

The general public was informed of the planned EA through a letter (March 19, 2007) to those on the District's mailing list, which included adjacent landowners, and the others who had requested scoping notices of timber sale EAs. An announcement was also posted on the District's Internet site, <http://www.blm.gov/or/districts/coosbay/index.php> and in a Legal Notice in *The World* newspaper March 21, 2007 requesting comments for scoping. The public was informed of the EA and FONSI through a direct notification (May 16, 2008) and via a published Legal Notice in *The World* newspaper (May 17, 2008). Four public comments were received. However, no substantive comments were received that required a change to the EA or the FONSI determination. The *Rock Bottom CT* was not protested when it was offered for sale.

Rationale for the Decision

I am choosing to offer the *Bottom's Up CT* Timber Sale for the following reasons:

- Implementation of the Proposed Action best meets the Purpose and Need described in the Slater Rocks EA (pp. 5-8); the No Action Alternative does not meet the Purpose and Need.
- It is consistent with the *1995 Record of Decision and Resource Management Plan* for the Coos Bay District of the Bureau of Land Management.
- It provides timber sale volume toward the Coos Bay District Allowable Sale Quantity as required by the Oregon and California Act of 1937.
- It complies with other major applicable laws, regulations, and Bureau policies.

Administrative Remedies

The original *Rock Bottom CT* Timber Sale had an administrative remedy opportunity with the timber sale advertisement (December 30, 2008).

The decision described in this document is a forest management decision and is subject to protest by the public. However, the principle of administrative finality precludes any protest of the *Bottom's Up CT* Timber Sale that is not substantially different from the original *Rock Bottom CT* Timber Sale from which this sale is derived.

In accordance with Forest Management Regulations at 43 CFR Subpart 5003 Administrative Remedies, protest of this decision may be filed with the authorized officer *Kathy Hoffine* within 15 days of the publication date of the notice of decision/ timber sale advertisement in *The World*, Coos Bay, Oregon.

43 CFR § 5003.3 subsection (b) states: "Protests shall be filed with the authorized officer and would contain a written statement of reasons for protesting the decision." This precludes the acceptance of electronic mail (email) or facsimile (fax) protests. Only written and signed hard copies of protests that are delivered to the Coos Bay District Office will be accepted. The protest must clearly and concisely state which portion or element of the decision is being protested and the reasons why the decision is believed to be in error.

43 CFR § 5003.3 subsection (c) states: "Protests received more than 15 days after the publication of the notice of decision or the notice of sale are not timely filed and shall not be considered." Upon timely filing of a protest, the authorized officer shall reconsider the project decision to be implemented in light of the statement of reasons for the protest and other pertinent information to her.

The authorized officer shall, at the conclusion of the review, serve the protest decision in writing to the protesting party (ies). Upon denial of a protest, the authorized officer may proceed with the implementation of the decision as permitted by regulations at 5003.3(f).

If no protest is received by the close of business (4:30 p.m.) within 15 days after publication of the decision notice, this decision will become final. If a timely protest is received, the project decision will be reconsidered in light of the statement of reasons for the protest and other pertinent information available, and the Coos Bay District Office will issue a protest decision.

For further information, contact Aimee Hoefs, Team Lead, at 1300 Airport Lane, North Bend, Oregon 97459; call (541) 756-0100; or email to BLM_OR_CB_Mail@blm.gov, ATTN: Aimee Hoefs.

Decision Approved by:

/s/ Kathy Hoffine

December 11, 2012

Kathy Hoffine
Myrtlewood Field Manager

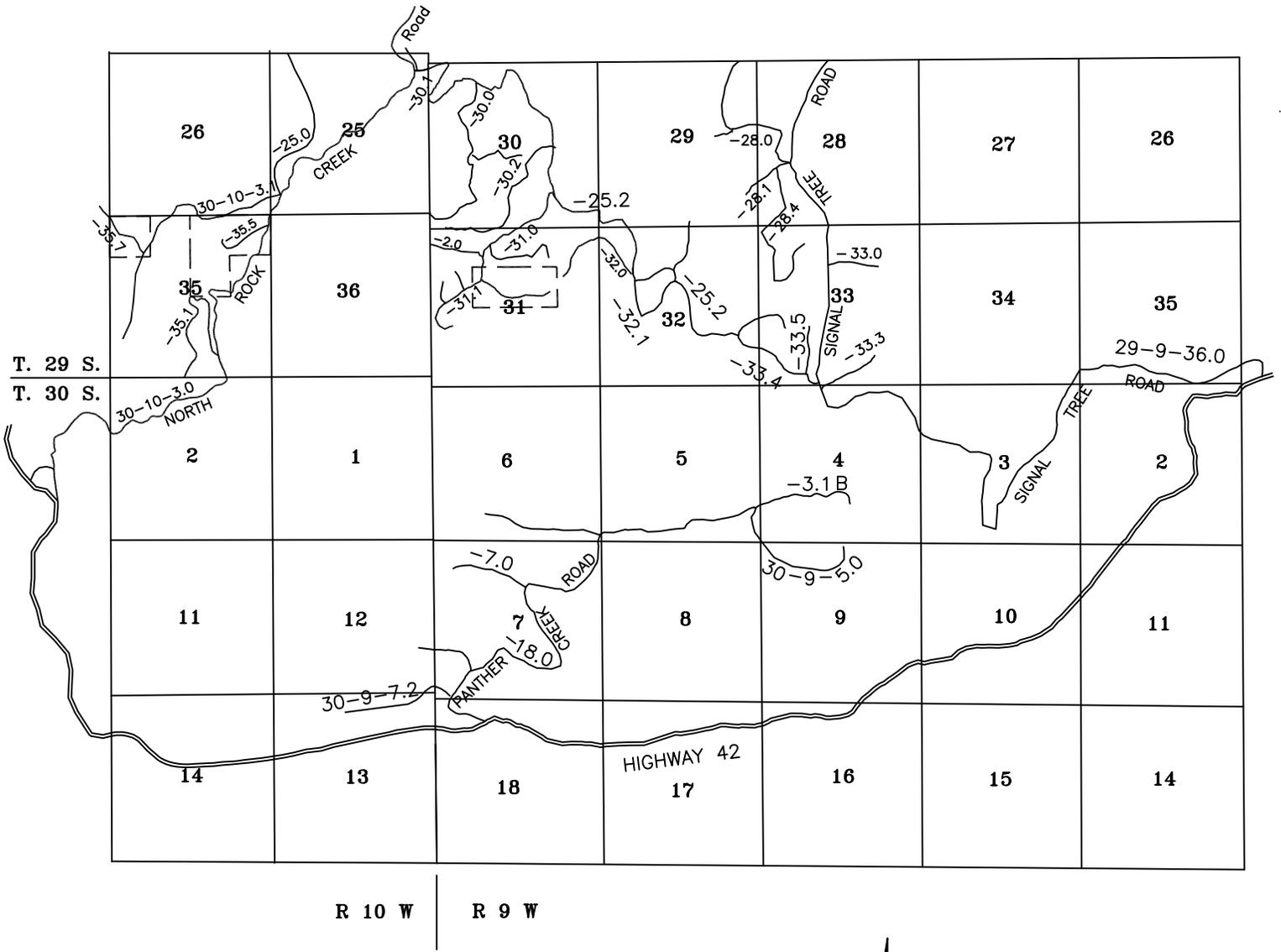
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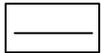
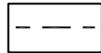
Enclosures: Timber Sale Prospectus Maps (Exhibit A, and A-1; 2 pages)

TIMBER SALE CONTRACT MAP
 USDI-BLM COOS BAY DISTRICT

T. 29 S., R. 9 W., Sec. 31, Will. Mer.
 T. 29 S., R. 10 W., Sec. 35, Will. Mer.

ORC00-TS-2013.0035
 EXHIBIT A-1
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 BOTTOM'S UP CT



-  Existing Road
-  Boundary of Contract Area
- 29 Section Number



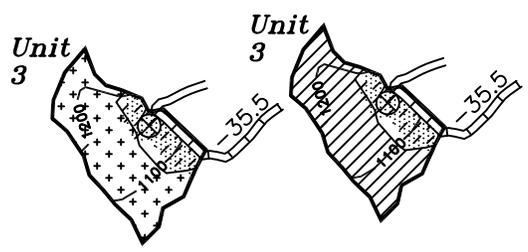
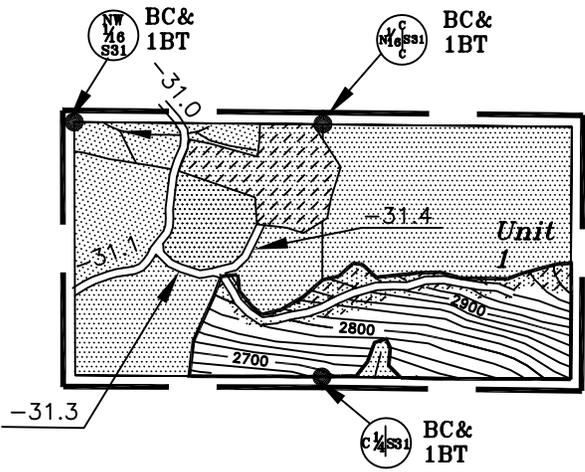
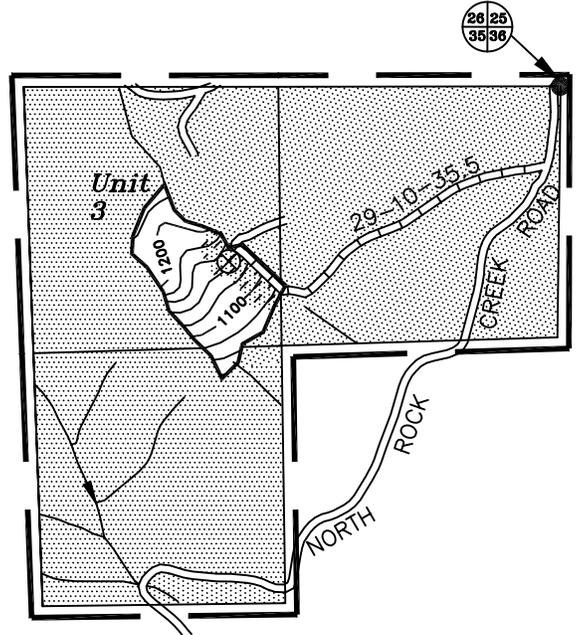
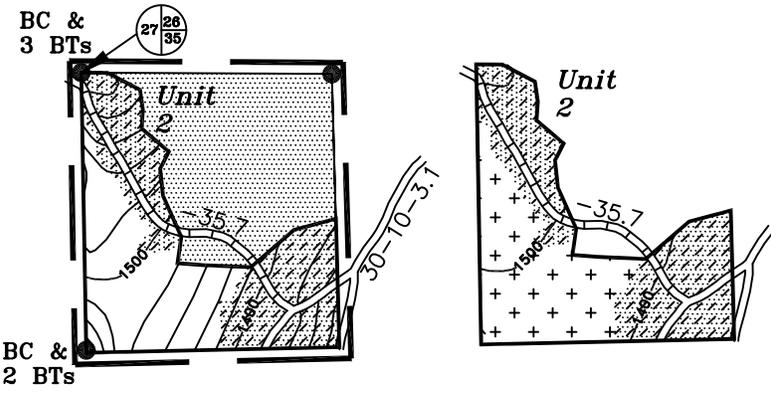
SCALE 1" = 1 Mile

TIMBER SALE CONTRACT MAP
 USDI-BLM COOS BAY DISTRICT

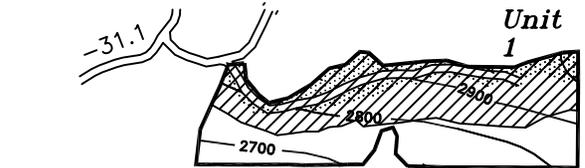
ORC00-TS-2013.0035
 EXHIBIT A
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 BOTTOM'S UP CT

T. 29 S., R. 9 W., Sec. 31 Will. Mer.
 T. 29 S., R. 10 W., Sec. 35 Will. Mer.

Unit 1	17 ac.	Total Reserve Area	206
Unit 2	10 ac.	Total Contract Area	240
Unit 3	7 ac.		
<u>Total</u>	<u>34 ac.</u>		



SCALE 1" = 1000'



	Partial Cut Unit		Ground Based Yarding Area
	Boundary of Cutting Area, Blazed, Posted and Painted		Timing Restriction Area (MM)
	Reserve Area		Proposed Landing
	Previous Sale Area - Reserve		Corner Found
	Existing Road		Stream Channel