United States Department of the Interior
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
ASHLAND RESOURCE AREA
3040 Biddle Road
Medford, Oregon 97504

DECISION RECORD #2

for the

COTTONWOOD FOREST MANAGEMENT PROJECT

(DOI-BLM-OR-M060-2011-0003-EA)

INTRODUCTION

This decision is for the road construction of 1.15 miles of new permanent road to provide access to units 20-1 and 20-2. There are no other new decisions in this document.

In addition, in response to the United States District Court Order in *Soda Mountain Wilderness Council v. BLM*, dated September 6, 2013, this document re-affirms my previous decision dated August 23, 2011 and supplements my reasoning for that decision regarding the selection of a course of action to be implemented for the Cottonwood Forest Management Project. The District Court Order granted BLM's motions for summary judgment except for the no-new-road claim which was remanded to the BLM for further consideration with the guidance of Soda Mountain Wilderness Council v. BLM, ___ Fed. App'x ___, 2013 WL 3890008 (9th Cir. July 30, 2013) (Soda Mountain). In Soda Mountain, the 9th Circuit Court held that the district court erred in failing to preliminarily enjoin "the building of 1.15 miles of new roads until the BLM either considers Soda Mountain's no-new-roads alternative for units 20-1 and 20-2, or specifies why that alternative was rejected in a manner that is consistent with the project objectives and consistent with the revised timber sale." This Decision Record provides information explaining why portions of the Proposed Action (Alternative 2) were not implemented in the previous Decision Record and specifying why rejecting the no-new-roads alternative is consistent with the project objectives, the revised timber sale and the National Environmental Policy Act.

The Environmental Assessment (EA) for the Cottonwood Forest Management Project documented the environmental analysis conducted to estimate the site-specific effects on the human environment that may result from the implementation of the Cottonwood proposal. The Cottonwood EA was issued for public review on July 1, 2011. Notification of the availability of the EA was published in Medford's Mail Tribune newspaper on July 6, 2011; the EA was posted on BLM's Medford District Website on July 5, 2011. The EA public review period ended on August 4, 2011. Based on comments received, a Revised EA (REA) was issued that considered and analyzed in detail two alternatives: a No-Action Alternative and the Proposed Action (Alternative 2), as well as considering but not analyzing in detail five additional alternatives (REA, pp. 2-35 to 2-37). This Decision Record #2 further explains why harvest units and road construction analyzed in the Proposed Action (Alternative 2) were not chosen for implementation in the original Decision Record.

BACKGROUND

The Cottonwood Forest Management Project EA documented the analysis of BLMs proposal to harvest trees on 1,108 acres of conifer forest stands on BLM-administered lands. The Cottonwood Forest Management Project is located primarily within the Keene Creek drainage of the Jenny Creek Watershed; an estimated 12 acres within two units would cross over the drainage boundary into the Dead Indian Creek drainage of the South Fork Little Butte Creek Watershed. The Public Land Survey System description for the Cottonwood Project Area[1] is: T. 38 S., R. 3 E., in sections 19, 20, 29, 32, 33, 34; T. 39 S., R. 3 E., in sections 3, 4, 5, 8, 9, 10, 17, 19, 20, 21, 27, 28, 29, 30, 31, 32, 34; T. 40 S., R. 3 E., in section 3; Willamette Meridian, Jackson County, Oregon.

THE DECISION

This decision authorizes approximately 1.15 miles[2] of new permanent road to be constructed to provide access to Units 20-1 and 20-2. This road will be closed immediately following the completion of harvest activities (construction and closure will occur the same season of use).

As previously stated, this Decision Record #2 does not change my August 23, 2011 decision to implement a subset of Alternative 2 as described below. The following components of the August 23, 2011 decision remain unchanged:

- The implementation of timber harvest on approximately 725 acres of conifer forest stands (Table 1 and Maps 1 through 4) using a variety of silvicultural prescription and harvest methods as described in the Revised EA (pp. 2-10 to 2-14).
- Commercial thinning will be accomplished using utilizing tractor (about 668 acres) and cable (about 57 acres) yarding systems.
- Follow-up fuels reduction treatments will occur as described in the Revised EA (p. 2-14) to mitigate hazardous fuels generated from timber harvest (activity fuels).
- The implementation of Alternative 2 will include pre-commercial thinning on approximately 16 acres of the commercial harvest units.
- Six temporary spurs roads (up to 0.6 miles) will be constructed to access Units 17-3, 17-4, and 17-5; temporary spurs will be constructed and decommissioned the same season of use (Revised EA, p. 2-3).
- About 1.9 miles of existing roads will be decommissioned. Road decommissioning involves removing culverts, constructing water bars and barricades, and seeding and/or planting, mulching disturbed areas, and camouflaging road entrances with slash, boulders, and coarse woody material, etc. as needed to prevent vehicle entry (Revised EA p. 2-4).
- An estimated 36 miles of existing roads, as described in the Revised EA (pp. 2-4 to 2-5) will be used as haul routes and improved as needed to meet BLM standards.

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[1] The Cottonwood Project Area includes areas where action is proposed, including units where forest thinning is proposed, roads used and maintained for hauling (up to County roads), road construction, or road improvements.

[2] This represents actual miles as surveyed on the ground; mileage was reported as about 1.3 miles in the EA.

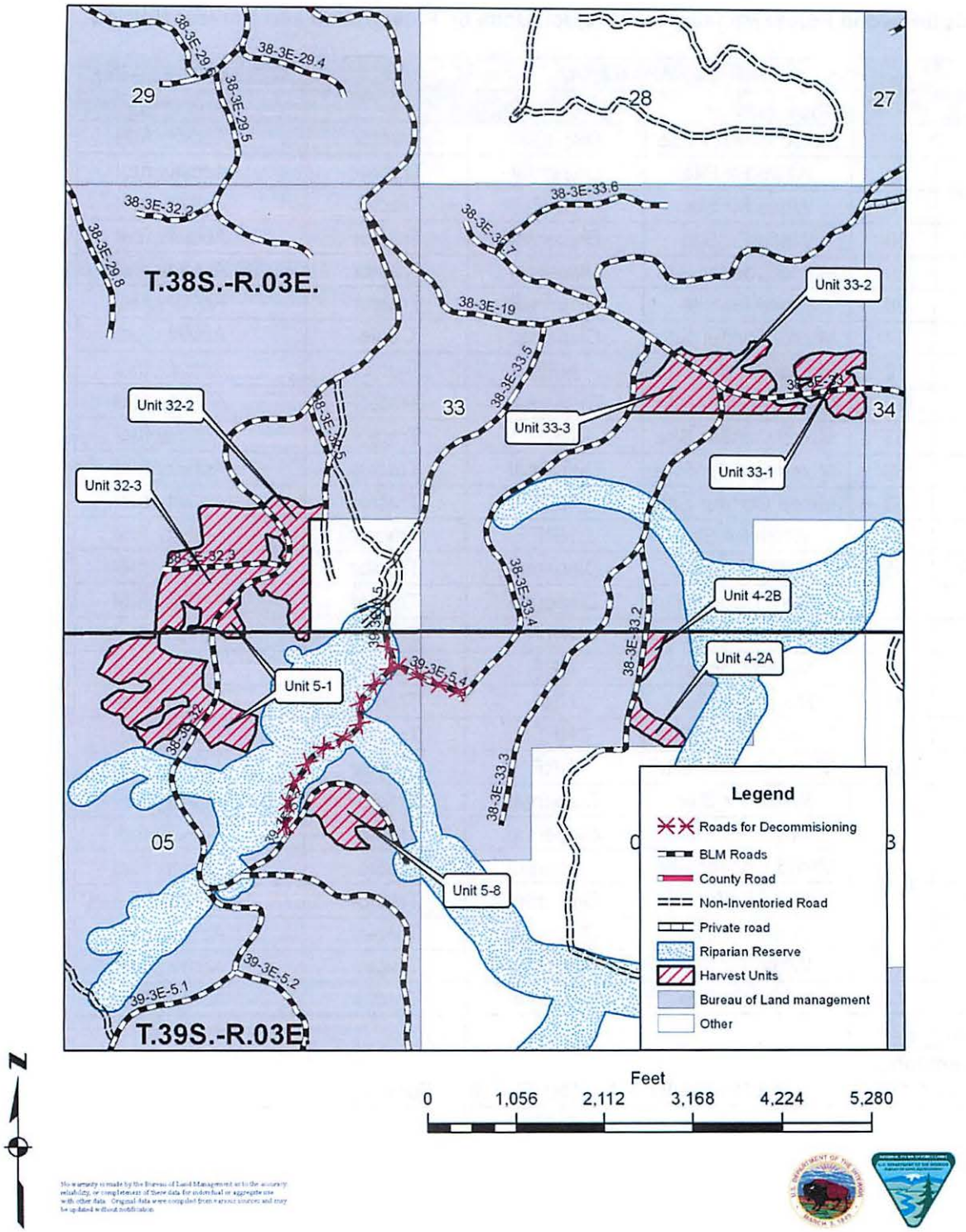
- All applicable Project Design Features (PDFs) will be incorporated as required conditions of this project. A complete listing of the PDFs can be found in Chapter 2 of the EA (pp. 2-14 to 2-33).

Table 1. Cottonwood Forest Management Project, Units by Prescription and Harvest Method

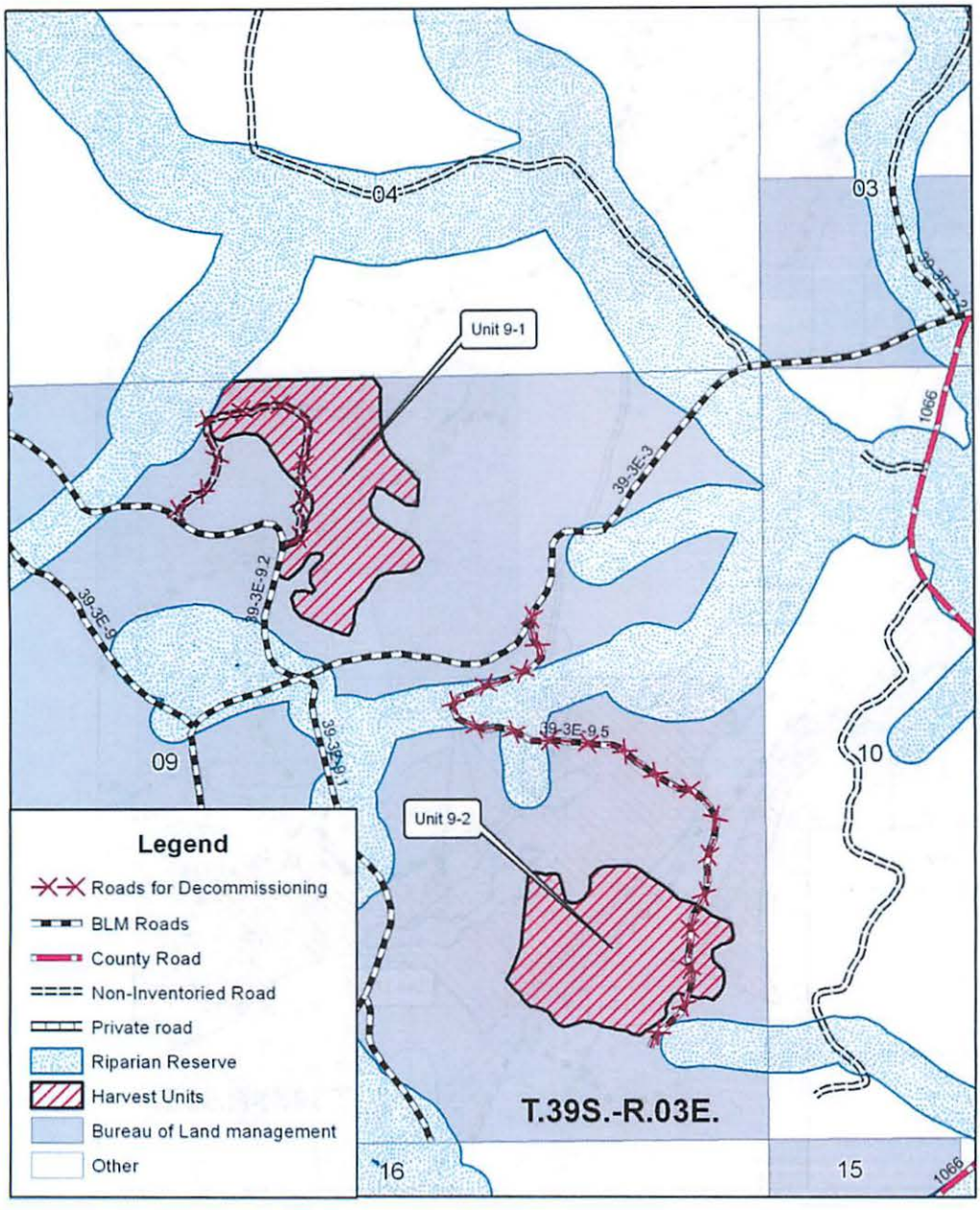
Unit No.	Est. Acres	Silvicultural Prescription		Harvest Method	Associated Treatments (PCT, Fuels)
		Forest Type	NSO Habitat Type		
4-2A,B	6	Mixed Conifer Site	Dispersal	Tractor	Activity fuel
5-1	8	White Fir Site	Dispersal	Tractor	Activity fuel
5-8	10	White Fir Site	NRF	Tractor	Activity fuel
9-1	30	White Fir Site	Dispersal	Tractor	Activity fuel
9-2	29	Mixed Conifer Site	Dispersal	Tractor	Activity fuel
17-2	38	White Fir Site	Dispersal	Tractor	Activity fuel
17-3	57	Mixed Conifer Site	Dispersal	Cable	Activity fuel
17-4	12	Mixed Conifer Site	NRF	Tractor	Activity fuel
17-5	19	Mixed Conifer Site	Dispersal	Tractor	Activity fuel
17-6	63	Mixed Conifer Site	NRF	Tractor	Activity fuel
20-1	33	Mixed Conifer Site	Dispersal	Tractor	Activity fuel
20-2	53	Mixed Conifer Site	NRF	Tractor	Activity fuel
21-1	32	White Fir Site	NRF	Tractor	Activity fuel
21-2A,B	55	Mixed Conifer	Dispersal	Tractor	Activity fuel
21-3	24	Mixed Conifer	Dispersal	Tractor	Activity fuel
21-4	57	Mixed Conifer	NRF	Tractor	Activity fuel
21-4C	3	Mixed Conifer	NRF	Tractor	Activity fuel
30-1	37	Mixed Conifer	NRF	Tractor	Activity fuel
30-2	21	Mixed Conifer Site	NRF	Tractor	Activity fuel
30-3	6	Mixed Conifer Site	NRF	Tractor	Activity fuel
32-2	14	White Fir Site	Dispersal	Tractor	Activity fuel
32-3	54	White Fir Site	Dispersal	Tractor	Activity fuel
32-4B	12	Mixed Conifer Site	Dispersal	Tractor	Activity fuel
32-5A,B	16	Mixed Conifer Site	Dispersal	Tractor	PCT/Activity fuel
33-1	11	White Fir Site	Dispersal	Tractor	Activity fuel
33-2	13	White Fir Site	Dispersal	Tractor	Activity fuel
33-3	12	White Fir Site	Dispersal	Tractor	Activity fuel
Total	**725**				

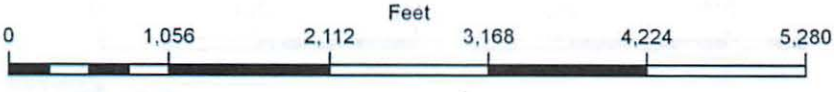
1. **Abbreviations:**
NSO = Northern Spotted Owl NRF = Nesting, Roosting, Foraging

Map1. Cottonwood Forest Management Project

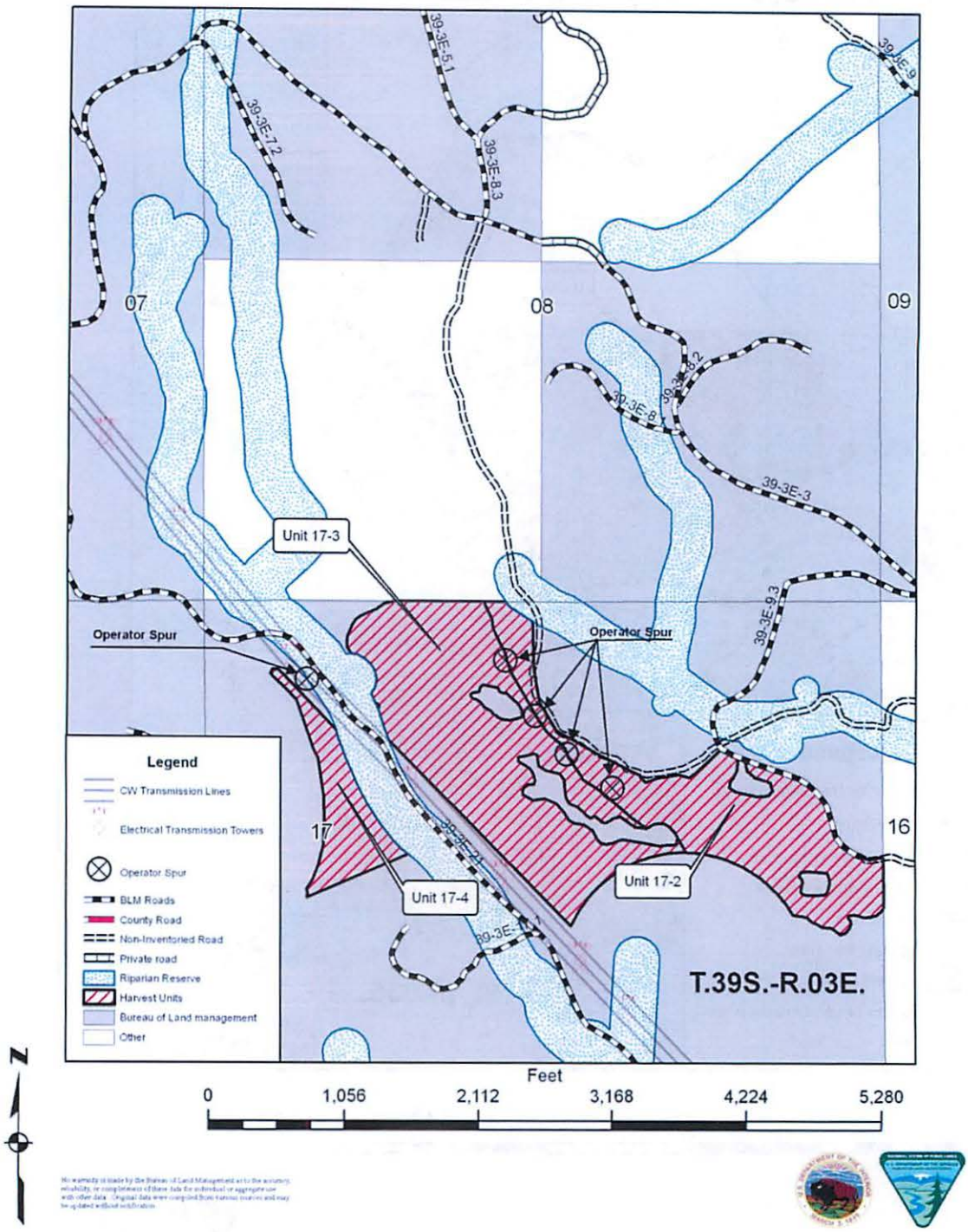


Map 2. Cottonwood Forest Management Project

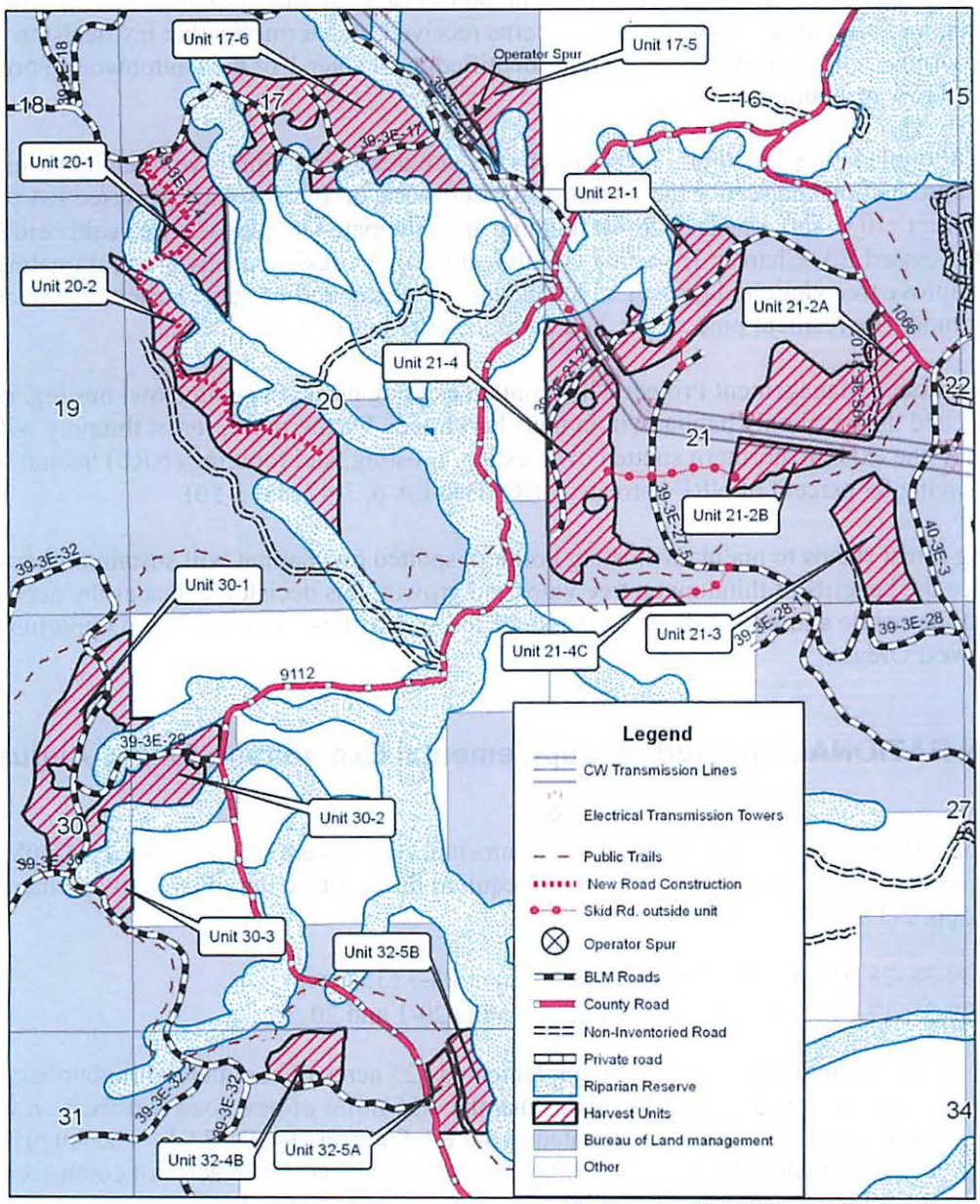




Map3. Cottonwood Forest Management Project



Map 4. Cottonwood Forest Management Project



T.39S.,R.3E.

Feet
0 1,056 2,112 3,168 4,224 5,280

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources and may be updated without notification.

DECISION RATIONALE (from August 23, 2011 Decision Record)

As stated in the August 23, 2011Decision Record, my decision to implement a subset of Alternative 2 was based on consideration of the relative merits and consequences of either implementing or not implementing the Cottonwood Forest Management Project, as documented in the Revised EA and Finding of No Significant Impact, as well as consideration of all public comments and concerns received. I determined that my decision outlined above best met the purpose and need for this project, as identified in Chapter 1 of the Cottonwood Forest Management Revised EA, in summary:

> Alternative 2 will implement silvicultural prescriptions that are designed to improve tree vigor and growth for long-term forest production and reduce the effects of forest disease on forest stands (Revised EA p. 2-10 to 2-12). The long term (>10 years) effects of forest thinning are anticipated to increase the health and vigor of the residual stands (Revised EA, Chapter 3, Section G, Silviculture). As designed, silvicultural treatments (forest thinning) will improve tree vigor and growth, maintain and create diversified stand structure, and decrease competition for more fire resilient pine, cedar, and oak species (Revised EA p. 3-67).
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> The Cottonwood Forest Management Project will maintain existing northern spotted owl nesting, roosting, foraging (NRF), and dispersal only habitat within units harvested. Furthermore, forest thinning will occur on only 17 percent of the existing northern spotted owl nesting, roosting, and foraging (NRF) habitat within the analysis area, leaving 83 percent of NRF untreated. (Revised EA p. 3-47 and 3-50).
>
> While managing forest stands to maintain existing northern spotted owl habitat will sustain higher stocking levels and reduce the benefits of thinning on tree vigor and growth, this decision balances the need to maintain owl habitat while addressing the need to reduce forest densities and provide job opportunities for people in southwest Oregon.

NEW DECISION RATIONALE (Including Supplemental Explanation for the August 23, 2011 Decision)

The Proposed Action (Alternative 2) in the Revised Environmental Assessment (REA) analyzed 1,108 acres for commercial timber harvest (REA, pp. 2-2 and 2-3) which required the construction of two new permanent roads for 1.5 miles (REA, pp. 2-3 and 2-5).

- Road 39-3E-28.02 for 0.2 miles would access unit 28-3 (35 acres)
- Road 39-3E-17.04 for 1.3 miles would access units 20-1 and 20-2

As stated above (p. 2), the original Decision Record implemented 725 acres of commercial timber harvest and 1.15 miles of new road construction (footnote 2 explains that the 1.15 miles of new road construction was the actual miles on the ground versus the 1.3 miles estimated in the EA for road 39-3E-17.04). The August 23, 2011 Decision Record did not explain why 383 acres out of the originally analyzed 1,108 acres of commercial timber units and 0.2 miles of the originally analyzed 1.5 miles of new permanent road (39-3E-28.02) were not implemented.

Road Construction not included in the original Decision Record

I did not include construction of the 0.2 miles of permanent road (39-3E-28.02) that would have accessed unit 28-3 in the August 23, 2011 decision because the BLM had not acquired legal access over that road segment through acquisition of an easement across private land at the time the Decision Record was issued. Such an easement would have been necessary for BLM to include the 0.2 miles of permanent road (39-3E-28.02) in the final decision, otherwise any operations conducted by BLM or its licensee would have been in trespass and potentially subjected the agency and its licensee to liability for such trespass. The attached document (Attachment 1) with the

subject title "Request and Justification to purchase an Easement" illustrates that the Ashland Resource Area had initiated the process of obtaining the easement on January 19, 2011. The BLM is still in the process of obtaining the easement (Attachment 1A) with the intention of constructing the road to access unit 28-3 in order to manage the forest stand consistent with the Cottonwood Forest Management Project objectives listed in the REA (p. 1-3).

Harvest Units not included in the August 23, 2011 Decision Record

Most of the harvest units that were not included in the August 23, 2011 Decision Record were removed due to changes in land allocations and designations caused by ongoing litigation over the 2008 Western Oregon Plan Revision (WOPR). The 2008 WOPR was implemented to revise the BLM's 1995 Resource Management Plan (RMP) in order to replace the Northwest Forest Plan land use allocations and management direction (WOPR FEIS, p. 1-3). The WOPR went into effect on December 30, 2008.

On July 16, 2009, Secretary of the Interior Ken Salazar administratively withdrew the 2008 WOPR. Upon the withdrawal of the 2008 WOPR, BLM's 1995 Medford District Record of Decision and Resource Management Plan (RMP) governed the Cottonwood project area. The Cottonwood Forest Management Project was initiated with the issuance of a Scoping Letter to the public on October 29, 2010. As stated in that letter and the Environmental Assessment, the Cottonwood Project was designed to implement the Bureau of Land Management's 1995 RMP.

On March 31, 2011, in a ruling on *Douglas Timber Operators v. Salazar*, the United States District Court, District of Columbia, vacated and remanded the Secretary of the Interior Ken Salazar's decision to administratively withdraw the 2008 WOPR. The Court's decision effectively reinstated the 2008 WOPR as the Resource Management Plan for the Medford District.[3]

The 2008 WOPR had land allocations and designations different than the 1995 RMP and withdrew, i.e. reserved, some lands included in the Proposed Action (Alternative 2) of the Cottonwood Project from active management. These allocations such as Late-Successional Management Areas, Deferred Timber Management Areas, and Administratively Withdrawn Areas are displayed on Map 1B from the 2008 WOPR ROD (Attachment 2) and land use allocations specific to the Cottonwood Project Area displayed on map 5, 6 and 7.

Rather than rework the environmental assessment for the Cottonwood Project entirely with new units and new analysis, the decision was made to carry the analysis forward trying to be consistent with both the 1995 RMP and the 2008 WOPR. Because of ongoing litigation over the 2008 WOPR, I felt the strategy best suited to conserve agency resources and meet landscape objectives was to continue designing the project to be consistent with both the 1995 RMP and the 2008 WOPR. Thus, when I signed the original Decision Record on August 23, 2011, I did not include Cottonwood Project units with WOPR deferred land use allocations in the Cottonwood Timber Sale.

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[3] On May 16, 2012, U.S. District Court (Pacific Rivers Council et al v. Shepard) vacated the 2008 Records of Decision/Resource Management Plans for western Oregon BLM districts and reinstated the BLM's 1995 RODs/RMPs. As of May 16, 2012, the Medford District has reverted back to its 1995 ROD/RMP as the official land use plan record. Although the units previously withdrawn from consideration due to the 2008 WOPR could now be implemented, they are not included in this decision because the focus of this decision is focused on the sold and awarded Cottonwood Timber Sale. Because the Cottonwood Timber Sale is sold and awarded, simply adding the previously withdrawn units to the existing contract would not be possible under competitive bidding regulations (43 C.F.R. § 5401.0-6). Even if the units we're sold under a separate timber sale, it would not be very practical to potentially have two different purchasers simultaneously operating within the originally conceived project area. In any event, it was within my discretion to order priorities for the Resource Area in terms of which acres to treat and in which order; in the interest of efficient use of agency resources, regulatory bidding compliance, and avoiding operational conflicts between purchasers, I did not reinstate the dropped units.

My intent was to ensure the project was consistent with those deferred land use allocations which effectively precluded commercial timber harvest in those dropped units[4].

Table 2 displays all units included in the Proposed Action Alternative (Alternative 2) from the Revised Environmental Assessment; compares those units to the units in the August 23, 2011 Decision Record; and provides justification why the units were not included or were modified in the 2011 Decision Record.

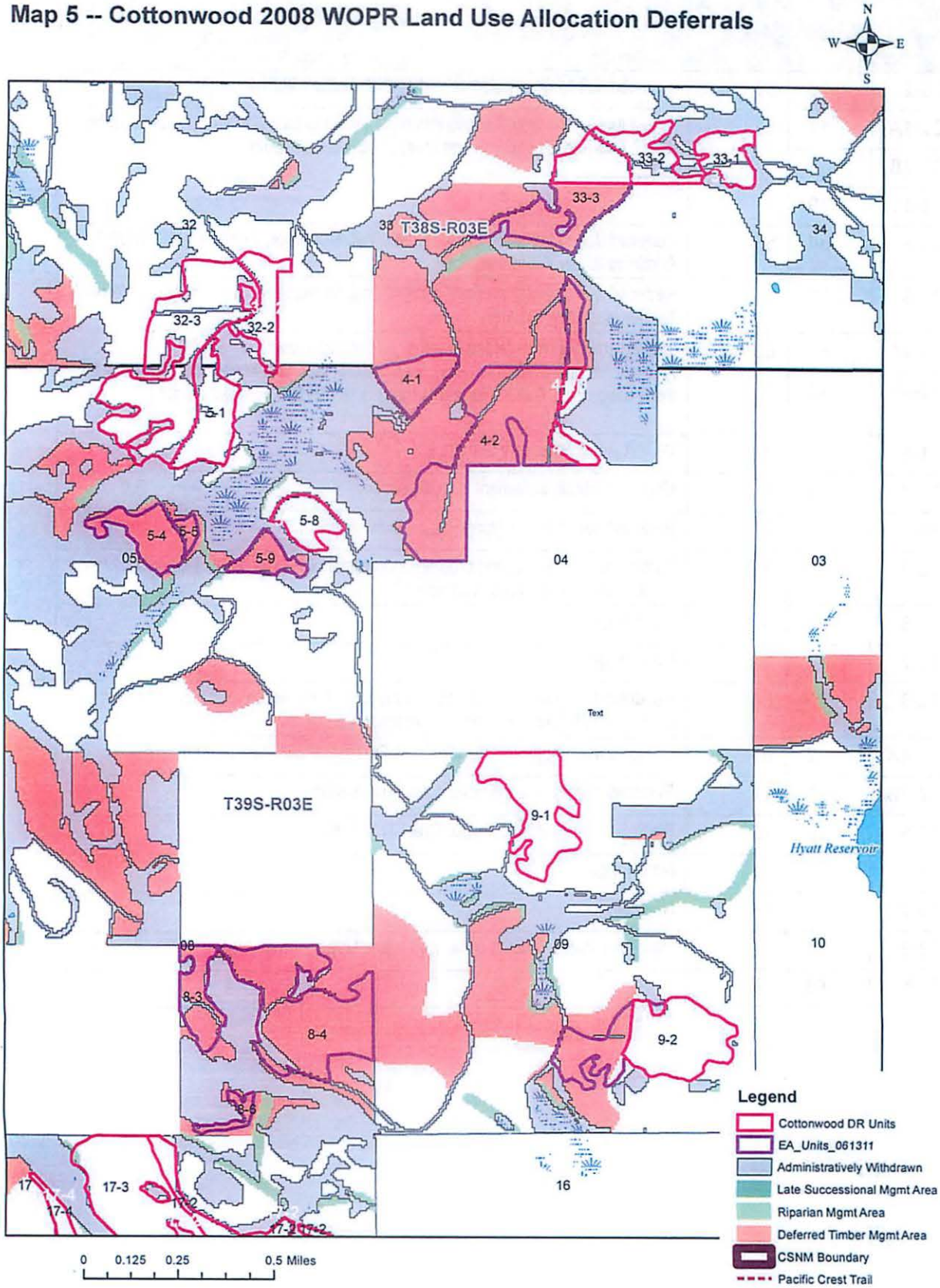
Table 2. Proposed Action and Decision Record Comparison

Unit No.	EA Acres	2011 DR Acres	Justification for not implementing in 2011 DR
4-1	13	0	WOPR Deferred Timber Management Area
4-2	75	6	Unit reduced due to WOPR Deferred Timber Management Area
5-1	19	8	Unit reduced due to WOPR Administratively Withdrawn Area
5-4	14	0	WOPR Deferred Timber Management Area
5-5	2	0	WOPR Deferred Timber Management Area
5-8	10	10	No Change
5-9	8	0	WOPR Deferred Timber Management Area
8-3	13	0	WOPR Deferred Timber Management Area
8-4	53	0	WOPR Deferred Timber Management Area
8-6	3	0	WOPR Deferred Timber Management Area
9-1	30	30	No Change
9-2	45	29	Unit reduced due to WOPR Deferred Timber Management Area
17-2	38	38	No Change
17-3	57	57	No Change
17-4	13	12	Difference due to mapping program inconsistencies (rounding up or down). The timber sale contract area is 12 acres.
17-5	19	19	No change
17-6	63	63	No Change
20-1	32	33	Difference due to mapping program inconsistencies (rounding up or down). The timber sale contract area is 32 acres.

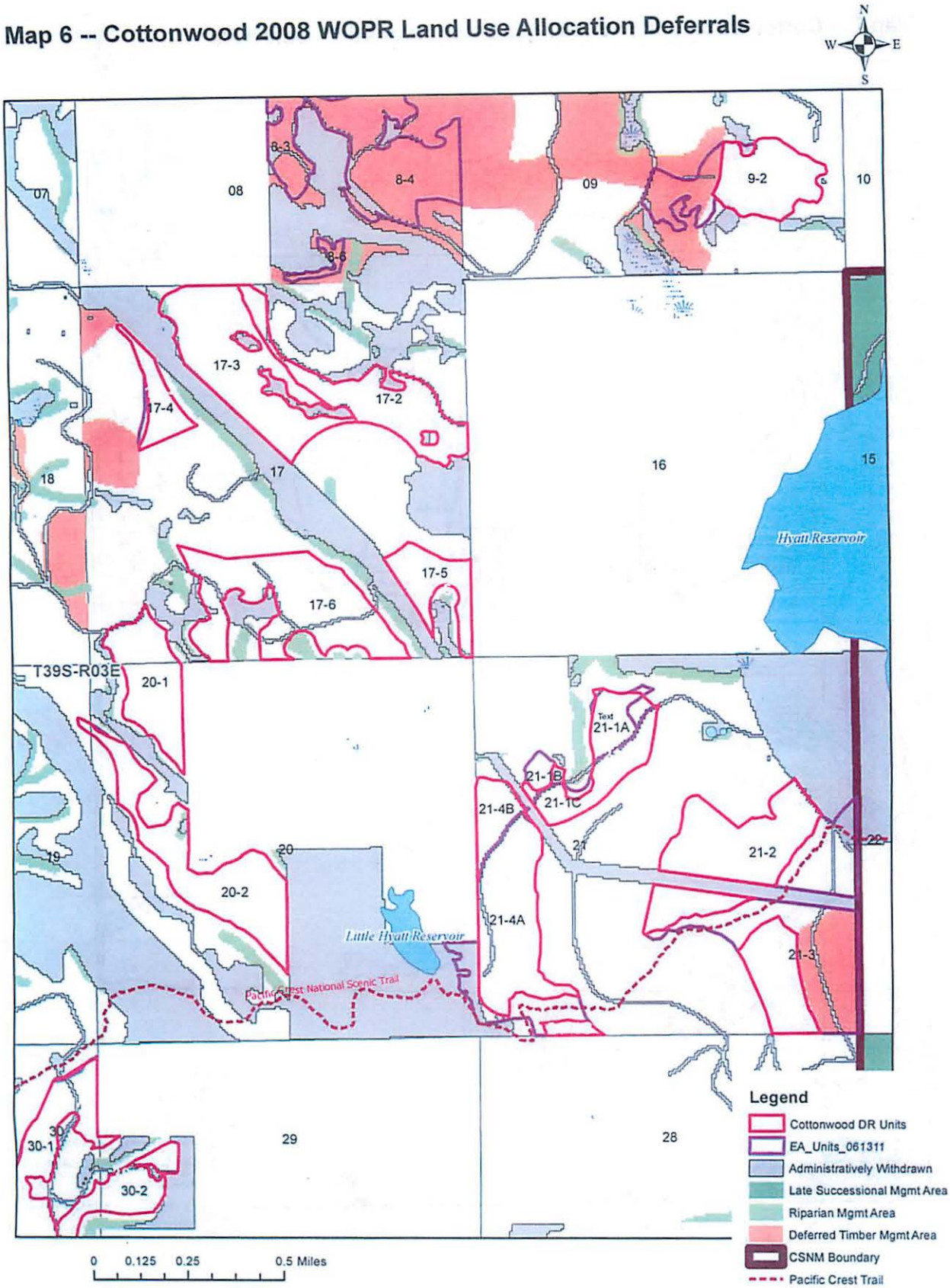
[4] Dropping these units based upon the 2008 WOPR's prohibition on programmed timber harvest in the deferred land use allocations is no different than how the BLM would have approached similar reserved land use allocations made under the 1995 RMPs.

Unit No.	EA Acres	2011 DR Acres	Justification for not implementing in 2011 DR
20-2	60	53	Reduced due to wet meadows and riparian areas within unit
21-1A	11	32	These three units were lumped into one unit in the Decision Record and reduced due to rocky soils concerns and steeper slopes that could not be logged using a tractor.
21-1B	5		
21-1C	19		
21-2	64	55	Reduced due to buffer on Pacific Crest Trail, Monument boundary and WOPR Administratively Withdrawn Area
21-3	79	24	Reduced due to buffer on Pacific Crest Trail, Monument boundary and Deferred Timber Management Area
21-4A	67	60	These two units were added together and reduced due to a WOPR Administratively Withdrawn Area, then the unit was split at the south end due to the Pacific Crest Trail Buffer and a three acre unit (21-4C) was created.
21-4B	12		
21-5	16	0	WOPR Administratively Withdrawn
28-3	35	0	Unable to obtain easement for road access
30-1	40	37	Reduced due to buffer along Pacific Crest Trail
30-2	22	21	Difference due to mapping program inconsistencies (rounding up or down). The timber sale contract area is 21 acres.
30-3	6	6	No change
32-2	14	14	No Change
32-3	60	54	Reduced during timber sale boundary layout of unit which excluded some small areas of WOPR Administratively Withdrawn areas.
32-4A	2	0	Dropped when buffer for Pacific Crest Trail made unit less than an acre
32-4B	13	12	Reduced slightly due to Pacific Crest Trail buffer
32-5	18	16	Reduced slightly due to Pacific Crest Trail buffer
33-1	11	11	No Change
33-2	13	13	No Change
33-3	34	12	Reduction due to WOPR Deferred Timber Management Area
Total	**1,108**	**725**	

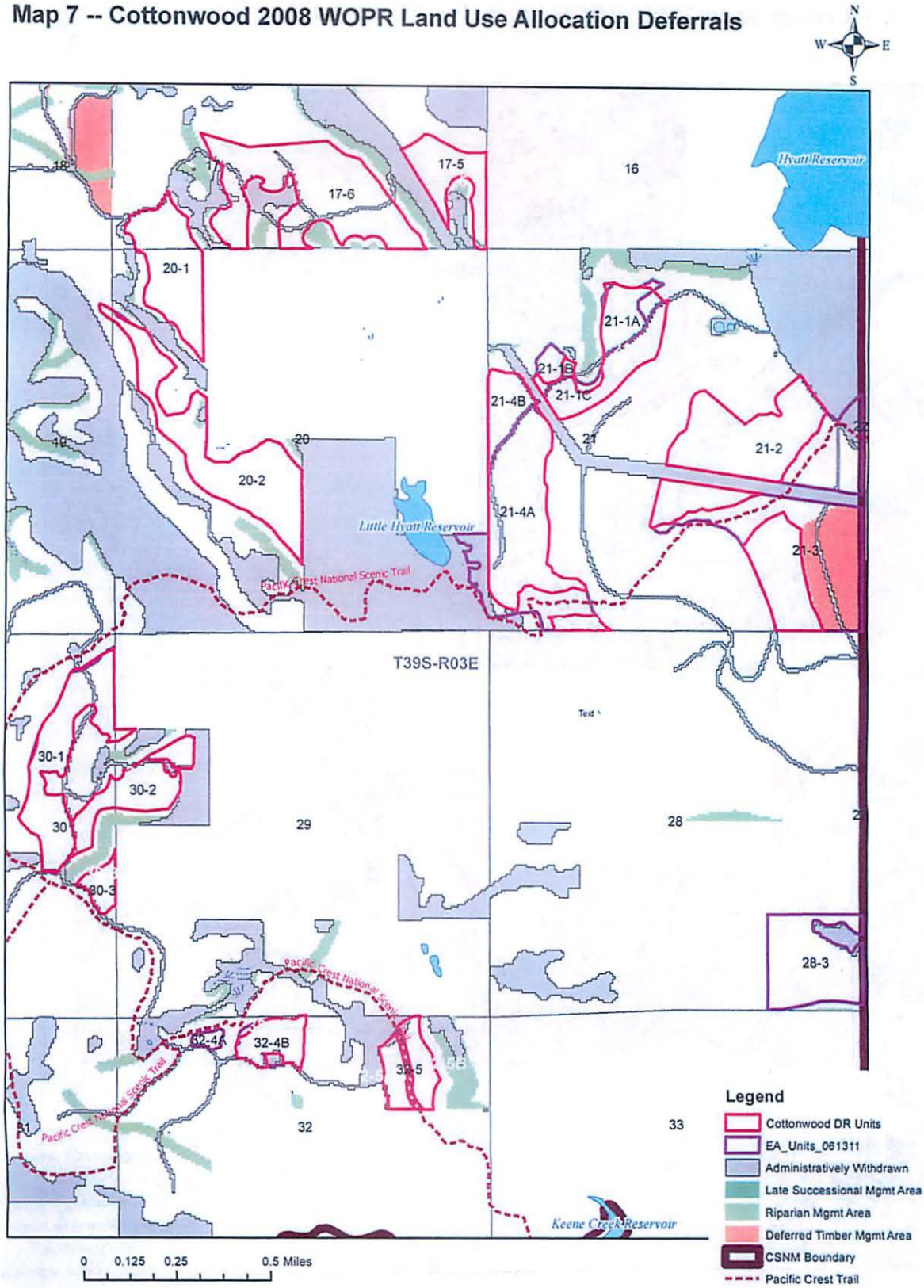
Map 5 -- Cottonwood 2008 WOPR Land Use Allocation Deferrals



Map 6 -- Cottonwood 2008 WOPR Land Use Allocation Deferrals



Map 7 -- Cottonwood 2008 WOPR Land Use Allocation Deferrals



Rejection of proposed alternative to construct no new permanent roads

In the EA for the Cottonwood Project, BLM rejected a proposed alternative to construct no new permanent roads as part of the project. As explained in the EA, a no-new-roads alternative is not reasonable because it does not meet the Purpose and Need of the project, which is to provide for sustained timber yield by harvesting timber on matrix lands (REA, p. 1-3). BLM's NEPA handbook (H-1790-1) explains that the purpose and need statement for implementation actions may be constructed in the context of the existing land use plan decisions; thus alternatives that are not in conformance with the RMP typically are not considered "reasonable." (NEPA Handbook, p. 80). Further, where an action is taken pursuant to a specific statute, the statutory objectives of the project serve as a guide by which to determine the reasonableness of project objectives. *Westlands Water Dist. v. United States DOI*, 376 F.3d 853, 866 (9th Cir. 2004).

Forest management is not possible if there is no legal and physical access to the forest stand. Road construction economically facilitates access to forest stands in need of treatment. In establishing the lands available for sustained yield management (Matrix) and the probable sale quantity calculations tied to those lands, the RMP expected that access would be provided to facilitate sustained yield management including timber harvest, fuels treatment, planting, etc.; particularly on lands where road construction would result in minimal environmental impacts. The Medford District Resource Management Plan Record of Decision states "Develop and maintain a transportation system that serves the needs of users in an environmentally sound manner" (RMP, p. 84). Not including permanent road construction to facilitate access to Matrix land for sustained yield management in the Decision Record for the Cottonwood Forest Management Project, especially when it can be accomplished in an environmentally sound manner, would not be consistent with the project objectives and direction of the Medford District Resource Management Plan.

The REA (pp. 2-35 and 2-36) clearly explained that the only alternative to building roads in order to access units 20-1, 20-2 and 28-3 would be to utilize helicopters for yarding logs which would render thinning those units uneconomical under reasonably foreseeable economic conditions over the 36 month life of the contract. In other words, as explained in the REA, the cost of thinning the units would exceed the expected resale value of the timber, leading to a net economic loss from thinning the units. As identified in the REA (p. 2-35), "the RMP directs that all silvicultural systems (forest thinning strategies) applied to achieve forest objectives would be economically practical (ROD/RMP p. 180; PRMP/EIS p. 2-62)." Thus, the only economically feasible alternative to building roads to those units would have been to drop the units from the timber sale.

As explained above, in my August 23, 2011 decision I dropped one of the units that required new permanent road construction, unit 28-3, because BLM was unable to obtain an easement over private property for the new access road. That decision was consistent with BLM's rejection of the no-new-roads alternative because the other two units that required new road construction, units 20-1 and 20-2, did not require such an easement and still needed to be thinned to improve the health of the stands and provide for a sustained yield of timber from those units (REA pp. 3-60, 3-65, 3-67). Stand exams data collected confirms the need to thin units in section 20. The results of the stand data analysis for that area are represented by stand numbers 124920 and 121273 in table 3-15 of the REA (p. 69). The analysis shows that the relative density index (RDI) is above 0.55 which marks the initial point of imminent mortality and suppression (REA p. 3-60). Table 3-15 also illustrates that the stands are projected to be below that threshold after harvest which would meet the silvicultural objectives. I also dropped a number of units to comply with the land use allocations under the 2008 WOPR. That decision also was consistent with BLM's rejection of the no-new-roads alternative. Units 20-1 and 20-2 were classified as "Timber Management Area" under the 2008 WOPR and thus remained available for timber harvest as part of the Cottonwood Project. Because units 20-1 and 20-2 needed to be thinned and road construction to access the units did not constitute a significant environmental impact (REA, pp. 3-22, 3-32, 3-50, 3-51, A-4, A-10, A-11; FONSI, pp. 2, 6, 7, 8), an alternative that required dropping those units would not have met the purpose and need of the project.

In conclusion, the Cottonwood Project will complete much needed forest thinning to provide for long-term sustainable timber production while maintaining existing habitat for the northern spotted owl. The required implementation of Project Design Features will provide for the protection of resources consistent with existing

laws, policy, and the direction of the 2008 Medford District Resource Management Plan (RMP) and the 1995 RMP (see Plan Conformance below and the Finding of No Significant Impact document for the Cottonwood Project).

MONITORING

Implementation monitoring is accomplished through BLM's contract administration process. Project design features included in the project description are carried forward into contracts as required contract specifications. BLM contract administrators and inspectors monitor the daily operations of contractors to ensure that contract specifications are implemented as designed. If work is not being implemented according to contract specifications, contractors are ordered to correct any deficiencies. Timber sale contract work could be shut down if infractions of the contract are severe. The contract violations would need to be corrected before the contractor would be able to continue work. If contract violations are blatant, restitution could be required.

CONSULTATION AND COORDINATION

Pursuant to the Endangered Species Act (ESA), formal consultation was completed with the US Fish and Wildlife Service. The Service concluded in its Letter of Concurrence (#13420-2010-1-0178) that the District's proposed action is not anticipated to result in any incidental take and is not likely to adversely affect spotted owls, or spotted owl critical habitat within the action area (Letter of Concurrence #13420-2010-1-0178, p. 14-15).

Scoping notices were sent on October 29, 2010 to Federally Recognized Tribes, the Klamath Tribe, the Confederated Tribes of the Siletz, the Confederated Tribes of the Grand Ronde, the Cow Creek Band of the Umpqua Indians, Shasta Indian Nation, and the Quartz Valley Indian Reservation. Jackson County Commissioners, Oregon Department of Fish and Wildlife, and Oregon Department of Forestry and many other agencies were also notified of this project during the scoping period.

PUBLIC INVOLVEMENT

A letter briefly describing the Proposed Action and inviting comments was mailed to adjacent landowners, interested individuals, organizations, and other agencies on October 29, 2010. The BLM led a field trip to the project area on November 6, 2010. The purpose of the field trip was to view and discuss the project proposal in the field with interested individuals and organizations. Comments were originally requested to be received by December 1, 2010; the scoping period was extended to December 30, 2010 in response to a request from the public for additional time to prepare their comments. Comment letters received were reviewed by the interdisciplinary team of specialists and by the Responsible Official, the Ashland Resource Area Field Manager. Issues identified to be relevant to the analysis of the proposed action were incorporated into the list of relevant issues in Section G, 1, Relevant Issues.

The Cottonwood EA was completed on July 1, 2011 and made available for public review. Notification of the availability of the EA was published in Medford's *Mail Tribune* newspaper on July 6, 2011; the EA was posted on BLM's Medford District Website on July 5, 2011. The EA public review period ended on August 4, 2011. Written comments received in response to the Cottonwood EA were reviewed by the interdisciplinary team and responsible official and substantive comments were addressed in Appendix A, Public Involvement Comment Analysis and Response to Comments Received for the Cottonwood Forest Management Project Environmental Assessment. In addition, minor revisions were made to the EA for the purposes of clarification. The revised EA was posted to the Medford District BLM website (http://www.blm.gov/or/districts/medford/plans/index.php) on August 24, 2011.

PLAN CONFORMANCE

The proposed action for the Cottonwood Forest Management Project was initiated under the *1995 Medford District Record of Decision and Resource Management Plan* (RMP), which incorporated the *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and the Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* (Northwest Forest Plan) (USDA and USDI 1994). The 1995 Medford District Resource Management Plan was later 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.*

The Cottonwood project is consistent with 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, as incorporated into the Medford District Resource Management Plan.

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 (W.D. Wash.) (Coughenour, J.), granting Plaintiffs' motion for partial summary judgment and finding a variety of NEPA violations in the BLM and USFS 2007 Record of Decision eliminating the Survey and Manage mitigation measure.

Judge Coughenour deferred issuing a remedy in his December 17, 2009 order until further proceedings, and did not enjoin the BLM from proceeding with projects. Plaintiffs and Defendants entered into settlement negotiations that resulted in the 2011 Survey and Manage Settlement Agreement, adopted by the district court on July 6, 2011.

The Ninth Circuit Court of Appeals issued an opinion on April 25, 2013, that reversed the District Court for the Western District of Washington's approval of the 2011 Survey and Manage Settlement Agreement. The case is now remanded back to the District Court for further proceedings. This means that the December 17, 2009, District Court order which found National Environmental Policy (NEPA) inadequacies in the 2007 analysis and records of decision removing Survey and Manage is still valid.

The project may proceed even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision. This is because the Cottonwood Project meets the provisions of the last valid Record of Decision, specifically 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 (not including subsequent Annual Species Reviews). Details of the project surveys are described on pages 3-24, 3-27, 3-40, 3-42,3-43, 3-44, 3-52, 3-54, 3-55, 3-87, 3-88, 3-90, 3-91, 3-94, 3-95, 3-97through 3-103 of the Environmental Analysis.

Following the March 31, 2011 decision by the United States District Court for the District of Columbia in *Douglas Timber Operators et al. v. Salazar*, which vacated and remanded the administrative withdrawal of the Medford District's 2008 ROD and RMP, we evaluated this project for consistency with the 2008 ROD and RMP. Based upon this review, I determined that my original Decision (Decision #1) was consistent with both the Medford District's 1995 ROD/RMP and the 2008 ROD/RMP. Although the selected alternative contains some design features not mentioned specifically in the 2008 ROD and RMP, these design features are consistent with the ROD and RMP. For example, the Cottonwood project contains Project Design Features that apply Best Management Practices of the 1995 RMP (Appendix D); the application of these Best Management Practices is consistent with Best Management Practices contained in the 2008 RMP (Appendix C). Additionally, since this project was initiated under the 1995 RMP, the project was designed and analyzed for conformance with 1995 RMP guidance for Riparian Reserves and the Aquatic Conservation Strategy Objectives.

On May 16, 2012, U.S. District Court (*Pacific Rivers Council et al v. Shepard*) vacated the 2008 Records of Decision/Resource Management Plans for western Oregon BLM districts and reinstated the BLM's 1995

RODs/RMPs. As of May 16, 2012, the Medford District has reverted back to its 1995 ROD/RMP as the official land use plan record. The 1995 Medford District Resource Management Plan incorporated the *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and the Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* (Northwest Forest Plan) (USDA and USDI 1994). As stated above, this project was designed to be in conformance with the 1995 RMP; because of this consistency, there was no need to revisit or revise my original decision after the vacatur of WOPR.

This decision is also in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act, and the Archaeological Resources Protection Act of 1979.

AUTHORIZATION

It is my decision to implement 1.15 miles of new road construction in the Cottonwood Forest Management Project as described in the section titled Decision, above. This decision is consistent with the Findings of No Significant Impact (FONSI) for the Cottonwood Forest Management Project dated August 23, 2011.

Ted L. Hass

acting for
John Gerritsma
Field Manager, Ashland Resource Area
Medford District, Bureau of Land Management

1/24/14

Date

ADMINISTRATIVE REMEDIES

This decision is a Forest Management Decision. Administrative remedies are available to persons who believe that they will be adversely affected by this decision. The United States District Court Order in *Soda Mountain Wilderness Council v. BLM*, dated September 6, 2013, granted BLM's motions for summary judgment on the original decision except for the no-new-road claim (the building of 1.15 miles of new roads to access units 20-1 and 20-2) which is the only issue available for administrative remedy. The principle of administrative finality precludes any further protest of the original August 23, 2011 Cottonwood Forest Management Project Decision and the findings contained therein except for the issue vacated by the United States District Court Order of September 6, 2013. This supplemental decision does not include any new or additional issues from the original decision and, except for the road issue, is not subject to protest consistent with the Doctrine of Administrative Finality; the only part of this decision that is protestable is the construction of 1.15 miles of new permanent road to provide access to units 20-1 and 20-2 and the NEPA analysis that supports that decision.

In accordance with the BLM Forest Management Regulations 43 CFR §5003.2 (a&c), the effective date of the decision, as it pertains to actions described above that are not part of an advertised timber sale, is the date of publication of this Notice of Decision in Medford Mail Tribune newspaper. Any protest must be made within 15

days of the publication of this Notice of Decision in the Medford Mail Tribune. Any contest of this decision should state specifically which portion or element of the decision that is being protested and cite the applicable regulations. 43 CFR § 5003.3 subsection (b) states: "Protests shall be filed with the authorized officer and shall 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 delivered to the Medford District Office will be accepted. The Medford District Office is located at 3040 Biddle Road, Medford, Oregon. The EA (DOI-BLM-OR-M060-2011-0003-EA) referenced above and associated DR, Finding of No Significant Impact and Environmental Assessment are available for review at the Medford District Office, 3040 Biddle Rd, Medford, OR and on the Medford District's website (http://www.blm.gov/or/districts/medford) under planning documents. For more information about this project contact John Gerritsma at (541) 618-2438.

Attachments – as stated

Attachment #1

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
3040 BIDDLE ROAD
MEDFORD, OREGON 97504

In Reply Refer To:
2130(112)
Swapping Rights Justification 2130-2
(ROW for Easement)

DISTRICT MEMORANDUM

To: ADM - Operations

From: Field Manager, Ashland Resource Area

Subject: Request and Justification to purchase an Easement or exchange rights

The Bureau of Land Management (BLM) desires to purchase an easement for the construction, use and maintenance of a road crossing lands owned by [redacted]:

T. 39 S., R. 3E., Section 28, Subdivision N½ SE ¼,SW ¼ SE ¼, NE ¼ SW ¼,

W. M., Jackson County, Oregon.

In exchange for granting a right-of-way to the applicant I request the acquisition of an easement for the purpose of use and maintenance of a road across private lands owned by the ROW applicant. The attached plat and maps show the location of the proposed easement. Documentation from the ROW applicant concurring with proceeding to swap rights, along with their verbal permission to enter their private lands, is included as part of the records that are attached.

EASEMENT CATEGORY: **Timber Sale** X **Recreation**____ **Other**____

CHARGE CODE: LLORM06000 L59000000JE0000
Priority: High X Medium___ Low____

Does ROW Applicant have immediate needs for access? If so describe why (i.e., need for financing, property being sold, etc.). No

Priority: High X Medium____ Low____
Timber Sale: X YES ___NO
Timber Sale Name: Cottonwood
Fiscal Year Sale Date: 2011
Fiscal Year Quarter: ____(Oct.-Dec.) ____(Jan.-Mar.)
____(April-June) X (July – Sept.)

Summer haul
Volume.

PART A --- GENERAL AREA INFORMATION

1. History of Proposed Easement Area.

   a. Is the road\route existing, or is new construction\reconstruction necessary?
      Most of the road is existing. Three portions of route are new construction, the portion in NE ¼ SE ¼ is proposed new construction in the Cottonwood Timber Sale. No Rock
   b. Have we used this route before through agreement or temporary rights?
      No – only informal permission
   c. What's the current and past use of the private land (i.e. timber management, agriculture, rural residential, recreation, etc.).
      Timber Management.
   d. Any other information concerning the land or people involved that may be pertinent in acquiring easements.
      We have good relations with landowner.
   e. Any management plans or analyses (RMP, watershed analyses, etc.) that guide BLM to acquire access across the private lands (please name the documents)?
      RMP

2. History of Proposed Right-of-way on BLM Lands.

   a. Is the road\route existing, or is new construction\reconstruction necessary?
      Existing
   b. Are there any agreements or temporary rights across the BLM road/land at this time?
      No
   c. What's the current and past use of the BLM land (i.e. timber management, agriculture, mining, recreation, special status area, etc.).
      Timber Management
   d. Any other information concerning the BLM lands that may be important when issuing a right-of-way.
      Existing roads is in the National Monument.
   e. Any management plans or analyses (RMP, watershed analyses, etc.) that discuss issuing rights across BLM, or private uses of the BLM lands (please name the documents)?
      Medford District RMP and Cascade National Monument RMP

3. Other Considerations – Future plans for the BLM lands and potential future plans to use the easement road.
   Timber Management

PART B --- ROUTE ANALYSIS

1. Brief narrative on each proposed road. Discuss both the ROW location (and alternatives) and the easement routes (and alternatives).

   The proposed route is the cheapest for the BLM, least disruptive to the land, and it is the most direct route into BLM lands.

2. Route Selection

   a. Summarize advantages and disadvantages of alternative routes.

      There are no advantages. The disadvantage of another route is that it would cost the BLM more, it would be more disruptive to the land, and it would be a much longer route.

   b. State your conclusion about choice of routes by priority.

      Using this proposed route has less impact and is lowest cost.

PART C --- RIGHT-OF-WAY DATA FOR SELECTED ROUTE

1. General Information of Road and Right-of-Way

   a. Proposed road numbers of both the ROW and easement routes (if applicable).

      ROW = 39-3E-27.8 Segments A
      40-3E-3.0 Segments A-C
      Easement = 39-3E-27.8 Segments B
      39-3E-28.1
      39-3E-28.2

   b. Right-of-way widths.

      ROW and Easement = ~~50'~~ 30'
      Right-of-way lengths.
      ROW = 1.89 miles more or less
      Easement = 1.18 miles more or less

   c. Acreage of right-of-way and easement.

      ROW = 11.50 acres more or less
      Easement = 7.03 acres more or less

   Refer to attached draft Exhibit A for location of right-of-way and easement, and alternatives.

2. Road Construction and/or Improvement Plans for both the Right-of-way and Easements.

   a. Subgrade widths.

      14' – 18'

   b. Surfacing - type and depth.

      Natural/Rocked/BST

   c. Grades.

      10% or less

d. Drainage type.
Ditch

3. Name of ROW Applicant and Description of Lands Owned by Applicant
   a. Legal description (with tax lot).
   N½ SE ¼,SW ¼ SE ¼, NE ¼ SW ¼ Tax Lot 3800
   b. Addresses (obtained from County Assessor Records). [redacted]

4. Miscellaneous Information
   a. Aerial photo coverage.
   Yes
   b. Property line control.
   Section has been subdivided by private surveyor in 1975. Scheduled to be surveyed by Cadastral spring 2011
   c. Any anticipated problems, such as; timber sale or construction difficulties.
   No

PART D --- LIST STIPULATIONS AND\OR ITEMS TO BE INCLUDED:

a. Stipulations in the ROW grant document.
b. Items to be included in the easement or an agreement attached to the easement.

PREPARED BY: John McNeel
Resource Area Lead Engineer

APPROVED BY: John A Sammels
Acting Resource Area Field Manager

REVIEWED BY: [signature] Date: 1-19-2011
OPS Staff Supervisor Or ADM–OPS

ASSIGNED TO: Juanita Wright Date 1/19/2011 CS
Acquisition Realty Specialist

9-1010555+1.541

Attachment:

- Vicinity Maps
- Easement Plat (Exhibit A)
- ROW Plat (Exhibit A)
- Environmental Site Assessment
- Draft NEPA Document
- ROW Application Casefile (OR _____ FD)
- Easement Files (OR _____ PT)
- Swapping Rights Checklist

LEGEND

Right of Way Grant

Easement New Construction

Easement

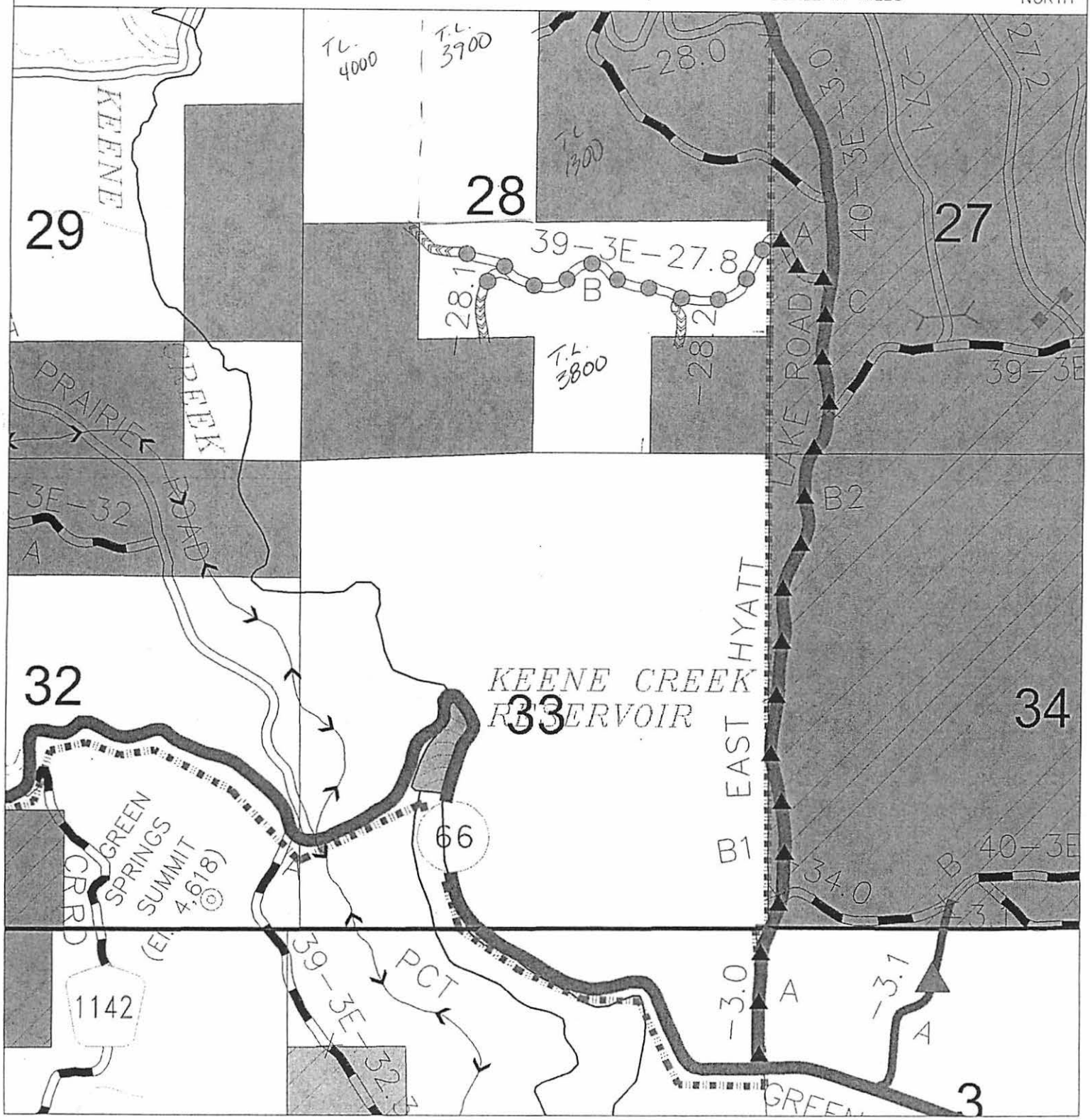
BLM

Cascade National Monument

VICINITY MAP
T.39S., R.3E., Section 28
WILL. MERIDIAN
JACKSON COUNTY, OREGON

0 1/2
SCALE IN MILES

N
NORTH



Attachment 1A

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Medford District Office
3040 Biddle Road
Medford, Oregon 97504
email address: BLM_OR_MD_Mail@blm.gov

IN REPLY REFER TO:
2100(ORM020)
OR 66974

MAY 1 5 2013

[redacted]

Dear [redacted]:

The Bureau of Land Management (BLM) in Medford, Oregon is interested in working with you on an exchange of access rights over property off East Hyatt Lake Road, in Township 39 South, Range 3 East, Section 28, Willamette Meridian, Jackson County, Oregon. You spoke with Realty Specialist, Juanita Wright, on the phone recently regarding this matter.

As discussed with Juanita Wright, the exchange of access rights would entail BLM granting to you perpetual legal access over the East Hyatt Lake Road and road 39-3E-27.8 (controlled by BLM) to your property in the form of an access Right-of-Way Grant. In exchange, BLM would receive a perpetual nonexclusive easement over your property. This would allow use for BLM, its licensees and permittees only, and not for the general public.

If you are planning a visit to the area within the next few weeks please call Realty Specialist, Juanita Wright, at 541-618-2345 to set up a meeting time with you on the property to fully discuss details.

A proposed draft nonexclusive easement and Right-of-Way Grant are enclosed for your review. The Exhibit A map details the proposed location of road use and construction over your property. If you have any questions, please call Juanita Wright.

Sincerely,

John Gerritsma
Field Manager
Ashland Resource Area

Enclosures

Attachment 1A

OR 66974 PT
R.E.M-1184

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

NONEXCLUSIVE ROAD EASEMENT

For and in consideration of the issuance of Right-of-Way Grant OR 66974 FD by the United States, receipt of which is hereby acknowledged,

[redacted], Trustees
or their successors of the [redacted] Loving Trust dated May 15, ~~2013~~ 2003 and any amendments thereto;

hereinafter called Grantors, whether one or more, does hereby grant to the UNITED STATES OF AMERICA, and its assigns, hereinafter referred to as Grantee, a perpetual nonexclusive easement to construct, use, maintain, improve, and repair an existing road located on the following-described real property situated in the County of Jackson, State of Oregon, to wit:

A parcel of land lying in the Southwest Quarter of the Southeast Quarter and the North Half of the Southeast Quarter and the Northeast Quarter of the Southwest Quarter all in Section 28, Township 39 South, Range 3 East of the Willamette Meridian, Jackson County, Oregon; the said parcel being all that portion of said property contained within a strip of land 50 feet in width, being 25 feet on each side of a centerline which road is shown and more particularly described on Exhibit A, which is attached hereto and made a part hereof.

The parcel of land to which the above description applies contains 7.06 acres, more or less.

When the Authorized Officer of the Bureau of Land Management determines that the road above-described might be used for the sale of resources from public land, the contract for such resources will provide that if the purchaser shall use the road he shall do so subject to the following provisions:

1 Grantee shall cause the road which is located on the above-described right-of-way to be maintained in good repair during periods of use by Grantee or its licensees and to be left in as good a condition as prior to such use.

2 Grantor, its successors and assigns, reserves title to all timber, now or hereafter growing, standing or down, within the above described right-of-way. Grantee may fell all timber within the right-of-way and danger trees adjacent to the right-of-way for construction, operation, and maintenance of a road. Trees felled of commercial value shall be bucked into standard log lengths and decked adjacent to the right-of-way in a manner suitable for loading with mobile loading equipment.

The easement herein granted is for the full use as a road by the UNITED STATES OF AMERICA, and its licensees, and is subject to the effect of reservations and leases, if any, of oil, gas, and minerals in and under said land.

TO HAVE AND TO HOLD said easement unto the UNITED STATES OF AMERICA, and its assigns forever. THERE ARE NO RIGHTS ACQUIRED FOR THE PUBLIC.

The acquiring agency is the United States Department of the Interior, Bureau of Land Management.

Grantor covenants and warrants that the Grantor is lawfully seized and possessed of the land aforesaid and has the full right, power and authority to execute this conveyance, and that said land is free and clear of liens, claims or encumbrances, except as shown above, and that the Grantor will defend the title to the easement conveyed herein and quiet enjoyment thereof against the lawful claims and demands of all persons.

Dated this ____ day of_____, 2013

Accepted subject to approval
of title by the Department of
Justice:

_____
DISTRICT MANAGER

_____
[redacted], Trustee

_____
[redacted] [redacted], Trustee

TRUSTEE ACKNOWLEDGMENT

STATE OF OREGON)
) ss
COUNTY OF JACKSON)

On this ____ day of _____, ~~2005~~ 2013, personally came before me, a notary public in and for said County and State, personally appeared [redacted] identified to me to be Trustees, or their successors of the Insley Loving Trust dated May 15, ~~2013~~ 2003 and any amendments thereto, proven to me on the basis of satisfactory evidence to be the identical persons described in and who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

_____
Notary public in and for the
State of Oregon
My commission expires: _____

EXHIBIT A OR 66974 PT

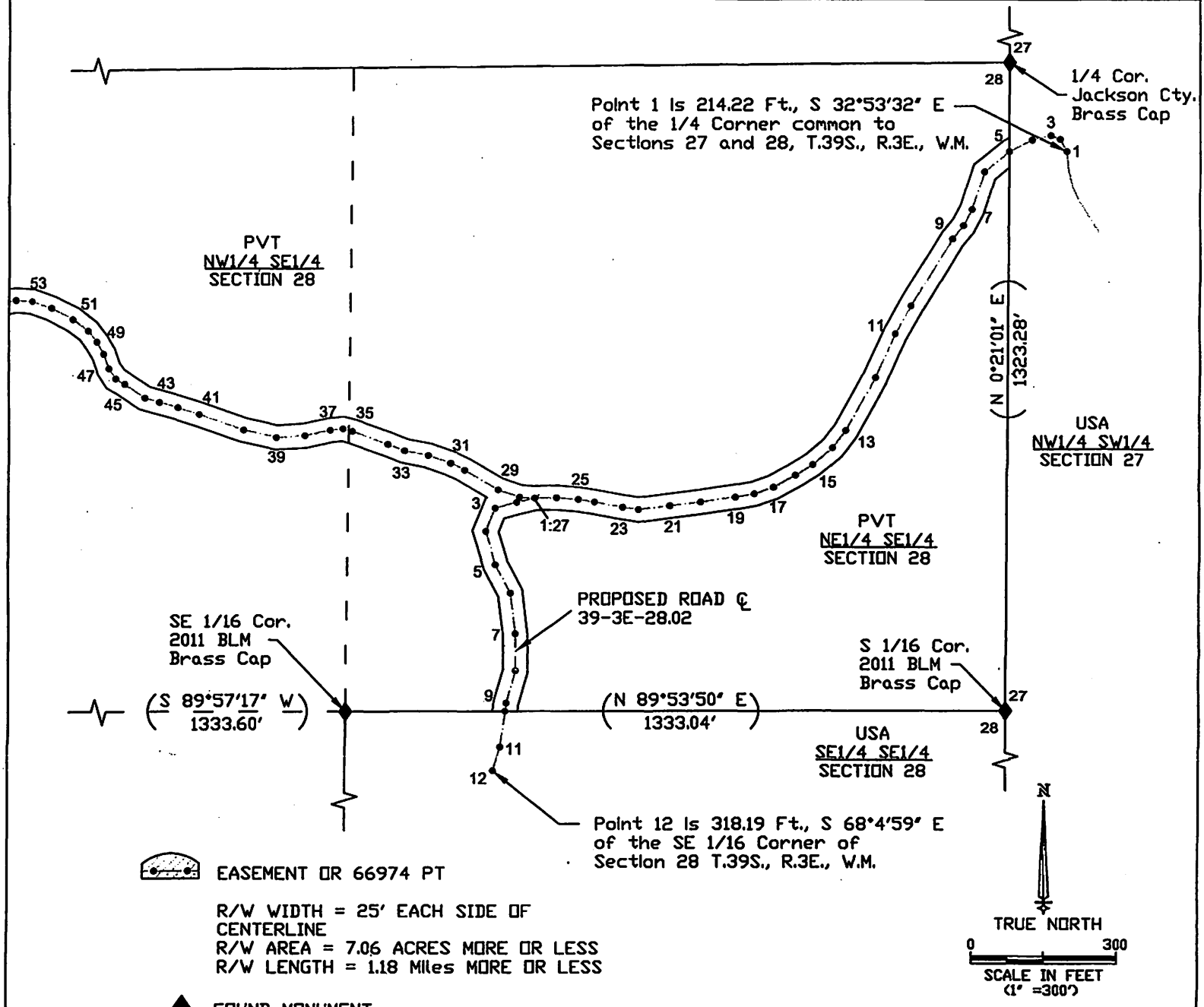
[redacted] TRUSTEE

T.39S., R.3E., SECTION 28 T.L. 3800

WILL. MERIDIAN

JACKSON COUNTY, OREGON

PAGE 1 OF 3



EASEMENT OR 66974 PT

R/W WIDTH = 25' EACH SIDE OF CENTERLINE
R/W AREA = 7.06 ACRES MORE OR LESS
R/W LENGTH = 1.18 Miles MORE OR LESS

◆ FOUND MONUMENT

SURVEY EQUIPMENT:
TOTAL STATION

(RECORD CADASTRAL SURVEY GROUP
NO. 2608 PRELIMINARY - NOT APPROVED)

SURVEY INFORMATION TAKEN BY TOTAL STATION

CORRECT AS TO ENGINEERING DATA

Reviewed by District Engineer

12/19/11
Date

EXHIBIT A OR 66974 PT

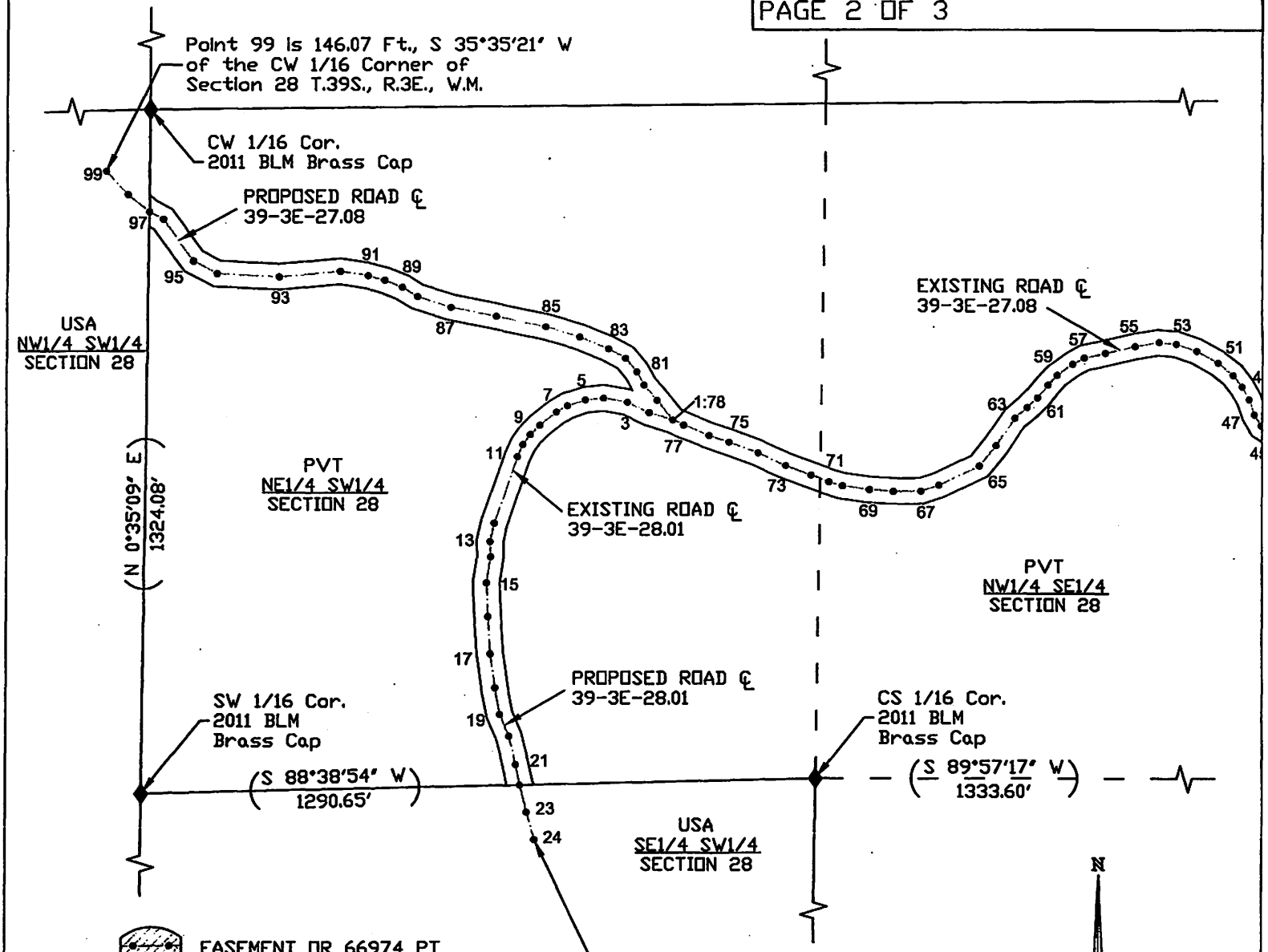
[redacted] [redacted] TRUSTEE

T.39S., R.3E., SECTION 28 T.L. 3800

WILL. MERIDIAN

JACKSON COUNTY, OREGON

PAGE 2 OF 3



EASEMENT OR 66974 PT

R/W WIDTH = 25' EACH SIDE OF CENTERLINE
R/W AREA = 7.06 ACRES MORE OR LESS
R/W LENGTH = 1.18 Miles MORE OR LESS

FOUND MONUMENT

SURVEY EQUIPMENT:
TOTAL STATION

(RECORD CADASTRAL SURVEY GROUP NO. 2608 PRELIMINARY - NOT APPROVED)

SURVEY INFORMATION TAKEN BY TOTAL STATION

CORRECT AS TO ENGINEERING DATA

Reviewed by District Engineer

Date

EXHIBIT A OR 66974 PT

[redacted] [redacted] TRUSTEE

T.39S., R.3E., SECTION 28 T.L. 3800

WILL. MERIDIAN

JACKSON COUNTY, OREGON

CENTERLINE OF EASEMENT 39-3E-27.08

PT#	BEARING	DISTANCE(FT)
1		
2	N 28°47'49" W	27.99'
3	N 68°16'55" W	19.97'
4	S 77°16'16" W	39.18'
5	S 63°6'53" W	52.91'
6	S 51°31'35" W	65.87'
7	S 18°6'25" W	80.91'
8	S 28°16'22" W	37.43'
9	S 39°41'57" W	35.35'
10	S 31°21'15" W	160.81'
11	S 29°50'35" W	65.21'
12	S 24°39'50" W	97.36'
13	S 28°16'55" W	124.42'
14	S 36°42'41" W	44.15'
15	S 49°7'0" W	52.93'
16	S 57°52'31" W	40.29'
17	S 60°50'38" W	50.48'
18	S 70°39'17" W	40.55'
19	S 80°14'7" W	38.42'
20	S 81°18'49" W	69.85'
21	S 83°25'49" W	62.89'
22	S 82°23'51" W	64.30'
23	N 81°12'36" W	33.00'
24	N 79°12'48" W	58.93'
25	N 81°8'39" W	33.63'
26	N 85°9'25" W	45.10'
1;27	S 88°22'43" W	44.37'
28	N 86°10'43" W	30.35'
29	N 71°3'25" W	46.16'
30	N 59°2'5" W	78.78'
31	N 63°59'29" W	31.37'
32	N 69°38'40" W	46.88'
33	N 78°11'15" W	48.10'
34	N 68°11'1" W	36.19'
35	N 69°42'19" W	76.32'
36	N 74°50'5" W	19.77'
37	S 84°43'52" W	26.04'
38	S 77°37'27" W	53.19'
39	S 86°31'57" W	57.65'
40	N 77°23'20" W	68.08'
41	N 69°48'14" W	95.47'
42	N 71°33'5" W	45.22'
43	N 74°56'20" W	39.26'
44	N 72°42'6" W	30.68'
45	N 55°47'28" W	50.09'
46	N 59°9'56" W	21.68'
47	N 33°40'29" W	25.17'
48	N 19°31'43" W	31.45'
49	N 30°5'43" W	28.21'
50	N 38°13'26" W	28.76'

PT#	BEARING	DISTANCE(FT)
50		
51	N 52°40'30" W	38.80'
52	N 62°5'50" W	49.04'
53	N 71°1'40" W	43.02'
54	N 85°26'36" W	34.96'
55	S 80°37'39" W	47.57'
56	S 77°14'36" W	59.55'
57	S 76°58'23" W	42.10'
58	S 61°32'20" W	25.52'
59	S 54°28'11" W	36.51'
60	S 42°37'45" W	26.07'
61	S 38°37'56" W	31.60'
62	S 46°11'34" W	27.60'
63	S 49°48'9" W	31.76'
64	S 34°26'46" W	63.92'
65	S 38°56'25" W	50.89'
66	S 64°28'18" W	86.61'
67	S 71°58'46" W	36.94'
68	S 89°43'58" W	52.43'
69	N 86°22'42" W	45.23'
70	N 81°25'35" W	51.05'
71	N 73°0'17" W	26.94'
72	N 69°42'42" W	36.24'
73	N 68°54'18" W	51.87'
74	N 65°31'8" W	58.40'
75	N 69°15'15" W	59.17'
76	N 71°17'8" W	40.45'
77	N 68°19'30" W	53.48'
1;78	N 64°38'15" W	22.98'
79	N 38°8'28" W	48.17'
80	N 39°49'1" W	38.90'
81	N 28°18'48" W	29.50'
82	N 40°5'6" W	34.08'
83	N 61°40'31" W	38.46'
84	N 67°1'31" W	60.24'
85	N 73°22'46" W	68.00'
86	N 77°55'47" W	96.82'
87	N 78°8'58" W	86.58'
88	N 72°23'2" W	67.08'
89	N 57°43'32" W	34.76'
90	N 67°15'10" W	35.51'
91	N 75°27'8" W	33.48'
92	N 80°56'10" W	54.81'
93	S 84°49'39" W	118.32'
94	N 86°51'42" W	118.14'
95	N 61°47'51" W	51.21'
96	N 35°47'32" W	99.18'
97	N 61°40'48" W	30.73'
98	N 51°18'32" W	52.89'
99	N 43°16'35" W	60.93'

PROPOSED CONSTRUCTION

CENTERLINE OF EASEMENT 39-3E-28.01

PT#	BEARING	DISTANCE(FT)
1;78		
2	N 72°41'53" W	47.24'
3	N 64°41'22" W	46.53'
4	N 79°53'25" W	47.20'
5	S 84°57'52" W	35.39'
6	S 71°39'44" W	36.28'
7	S 59°12'16" W	24.99'
8	S 51°27'25" W	39.99'
9	S 44°32'2" W	24.98'
10	S 36°18'21" W	23.99'
11	S 24°48'10" W	25.52'
12	S 18°57'38" W	137.10'
13	S 12°10'44" W	36.92'
14	S 2°18'55" E	29.82'
15	S 8°10'45" W	51.50'
16	S 2°2'17" E	65.58'
17	S 3°51'36" E	71.63'
18	S 7°56'6" E	65.72'
19	S 10°38'5" E	52.01'
20	S 22°59'54" E	45.29'
21	S 13°55'3" E	56.79'
22	S 11°30'30" E	40.71'
23	S 13°21'18" E	53.76'
24	S 15°53'0" E	55.53'

PROPOSED CONSTRUCTION

CENTERLINE OF EASEMENT 39-3E-28.02

PT#	BEARING	DISTANCE(FT)
1;27		
2	S 76°59'12" W	37.22'
3	S 74°47'45" W	45.32'
4	S 22°2'33" W	50.80'
5	S 15°56'3" E	70.85'
6	S 27°56'59" E	65.40'
7	S 6°53'18" E	83.61'
8	S 0°48'38" E	76.10'
9	S 15°44'3" W	69.34'
10	S 7°35'38" W	17.17'
11	S 7°35'38" W	72.59'
12	S 17°12'8" W	49.79'

PROPOSED CONSTRUCTION

CORRECT AS TO ENGINEERING DATA

Reviewed by District Engineer

Date

Attachment 1A

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

Issuing Office
Medford District

Serial Number
OR 66974 FD

1. A right-of-way is hereby granted pursuant to:

   a. X Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);

   b. ____ Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);

   c. ____ Other (describe) _____.

2. Nature of Interest:

   a. By this instrument, the holder(s) [redacted] receive a right to operate, maintain, and terminate a right-of-way for use of an existing road, number 40-3E-3.0 and 39-3E-27.08, located on BLM land for access to private property. Authorized uses under this grant include legal ingress/egress to private property, and commercial log hauling. The BLM land is located as described below:

T. 39S., R. 3E.,
Section 27, SE¼
Section 34, W1/2

T. 40S., R. 3E.,
Section 3, NW¼, road controlled by exclusive easement 017801 & 018109
Willamette Meridian, Oregon

   b. The right-of-way area granted herein on 40-3E 3.0 is 50 feet wide, 1.70 miles long and contains 10.64 acres, more or less; and 39-3E-27.08 is 20 feet wide, 0.17 miles long and contains 0.40 acres more or less.

   c. This instrument is perpetual, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

   d. This instrument: may be renewed. If renewed, the right-of-way shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

   e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder(s), its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: **Waived**

   Rental is waived as per 43 CFR 2806.15 (b) (4) and 43 CFR 2804.16 (b). The Holder, [redacted], and BLM exchanged reciprocal rights, under this Right-of-Way Grant, OR 66974 FD, for Nonexclusive Road Easement OR 66974 PT.

4. Terms and Conditions:

   a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.

   b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within ___N/A___ days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.

   c. The stipulations, plans, maps, or designs set forth in Exhibit(s) __A and B__ , attached hereto, and are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.

   d. Failure of the holder to comply with applicable law or any provisions of this right-of-way grant shall constitute grounds for suspension or termination thereof.

   e. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

   f. If the holder elects to haul commercial forest products over road 39-3E-27.08 and 40-3E-3.0, authorized under this grant, a road maintenance fee will be charged based on the quantity hauled or the BLM may authorize the holder to perform road maintenance work to BLM standards for this road as a condition of hauling commercial products.

   g. With BLM's approval, the holder may request assignment in whole or in part, any right or interest in the grant, under regulations contained in Title 43 Code of Federal Regulations part 2807.21.

DRAFT

ACKNOWLEDGMENT

This right-of-way holder is aware that the Bureau of Land Management (BLM) administered lands in western Oregon are managed primarily for timber resource activities which include timber harvesting, reforestation, and tree release programs. Other BLM forest management activity may include: application of herbicides, firewood cutting, and prescribed burning. Logging operations cause dust and noise. Many of these activities are considered objectionable by residents living on adjacent private lands. BLM roads will be used to haul timber. In general, BLM maintains these roads only when associated with commercial hauling of forest products. Other important resources of these lands include wildlife habitat, minerals, soil and water quality, recreation opportunities, and others. The holder should also be aware that the BLM may grant other rights-of-way across BLM lands, and may also enter into agreements for exchange or sale of BLM administered lands.

IN WITNESS WHEREOF, The undersigned agree to the terms and conditions of this right-of-way grant.

DRAFT

_____	_____
(Signature of Holders)	(Signature of Authorized Officer)
_____	_____
(Title)	(Title)
_____	_____
(Date)	(Effective Date of Grant)

FIELD MANAGER ACKNOWLEDGMENT

STATE OF OREGON)
) ss
COUNTY OF JACKSON)

On the _____ day of _____, 2013, personally came before me, a notary public in and for said County and State, John Gerritsma, who, being duly sworn, did say that he is the Field Manager of the Ashland Resource Area of the Medford District of the Bureau of Land Management (BLM), and that he executed the foregoing instrument by authority of and in behalf of the United States of America; and he acknowledged said instrument to be the act and deed of the United States of America.

Given under my hand and official seal the day and year last above written.

_____
Notary public in and for the State of Oregon
My commission expires: _____

EXI `IT A OR 66974 FD
RIG... OF WAY GRANT
T.39S., R.3E., SECTION 27
T.39S., R.3E., SECTION 34
T.40S., R.3E., SECTION 3
WILL. MERIDIAN
JACKSON COUNTY, OREGON
PAGE 1 OF 1

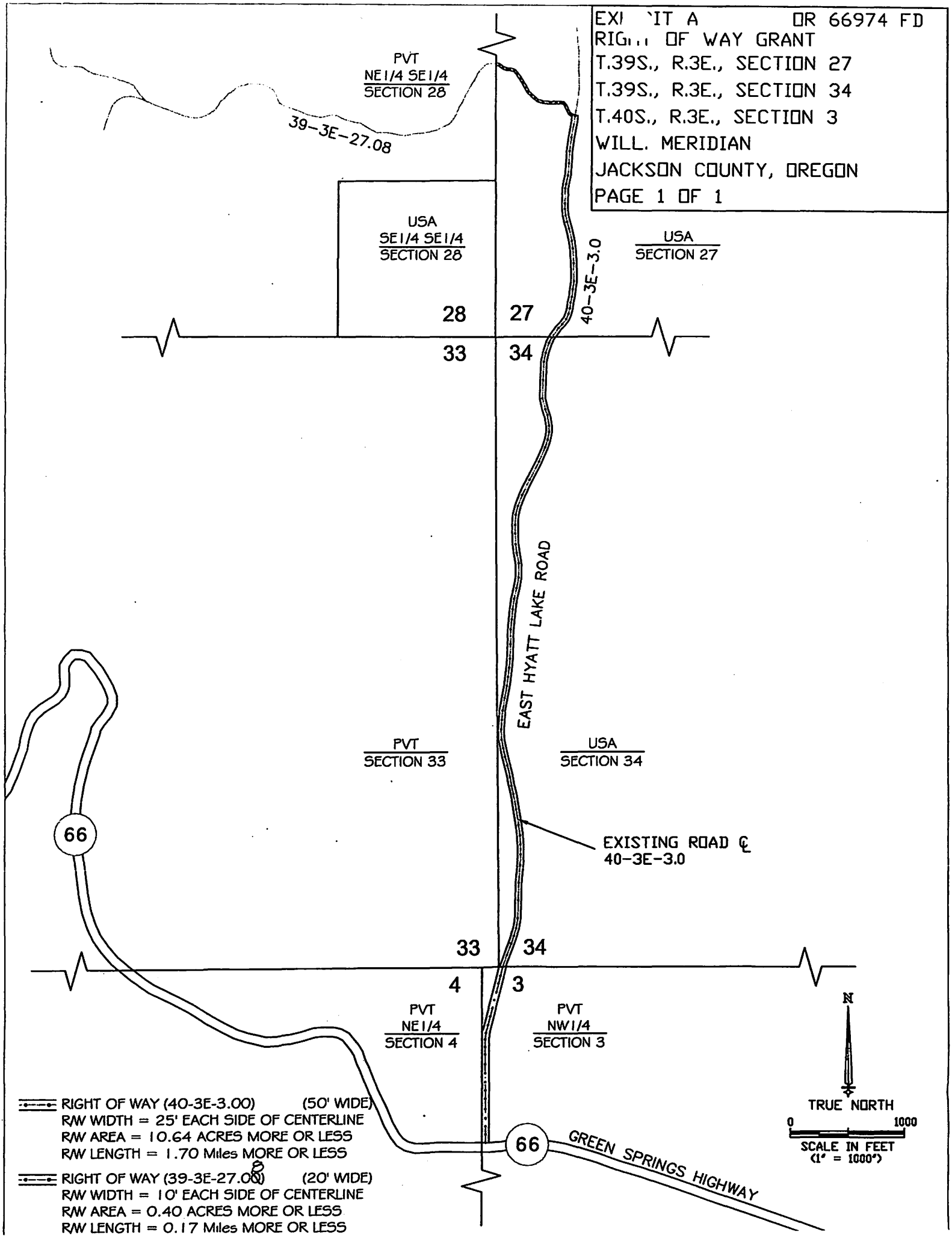


Exhibit B
OR 66974 FD

OTHER TERMS AND CONDITIONS

The United States will not be held liable for any damage to the road caused by the general public, natural disasters or as a result of normal use by the Bureau of Land Management.

Cultural and Paleontological Resources. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on their behalf, on public or Federal land shall be immediately reported to the Authorized Officer. Holder shall suspend all operations in the immediate area of such discovery until a written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values.

The Holder shall protect existing roads, utility lines and like improvements during operation and maintenance. Holder shall cause the road which is located on the above-described right-of-way to be maintained in good repair during periods of use by holder, or any person working on their behalf, and to be left in as good a condition as prior to such use.

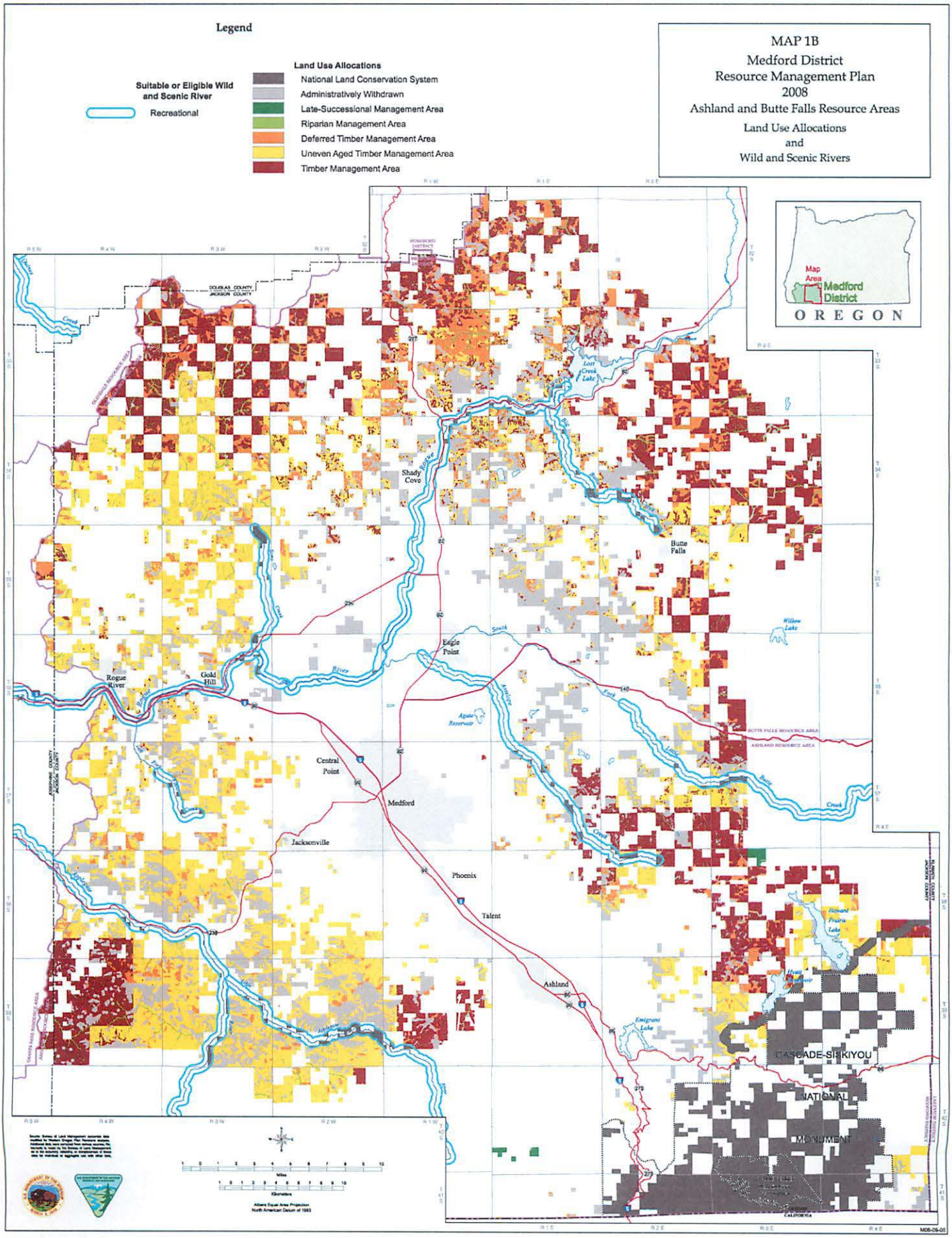
Natural vegetation shall be cleared or trimmed only when necessary to provide suitable access for operations, maintenance, safety, and repair of the system.

The Holder shall not place signs, gates, or barricades on public land, its resources, or improvements without prior written approval from the Authorized Officer.

The Holder shall be authorized to remove snow from the road subject to the following conditions:

1. Snow shall be removed as it falls. This is necessary to prevent snow build up and prevent possible damage to the road surface by tire chains.

2. Snow shall be removed to a width sufficient to provide for safe operation room. Turnouts shall be plowed to provide for the safe passing of vehicles. Holes shall be punched through the snow bank at periodic intervals (max. 500 ft.) to allow for snow melt to drain off the road surface.

3. When conditions exist that may cause damage to the road, or it is found that damage has occurred to the road or any facility (cattle guards, signs, ect.) adjacent to the road you shall cease operations immediately. You shall be liable for resulting from damage caused by your snow removal operations. The BLM reserves the right to suspend snow removal operations when evidence of damage to the road surface is noted. When conditions exist that may cause damage to the road, you shall cease operations immediately until more favorable conditions exist.

Attachment 2