U.S. DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT

CATEGORICAL EXCLUSION REVIEW AND DECISION RECORD

Regor Thin Project

DOI-BLM-OR-M080-2011-002-CX

A. Background

Proposed Action Title: Regor Thin

Location of Proposed Action:

Medford District
Glendale Resource Area
T.33S., R.8W., Sections 1, 12

Land Use Allocations: Northern General Forest Management Area and Riparian Reserve

Project Description: The Regor Thin Project proposes to commercially thin approximately 70 acres of overstocked conifer stands. The two conifer stands (harvest units 1-1, and 12-6) are 74 to 95 years of age and range from 7 to 36 inches diameter at breast height (DBH), with occasional remnants up to 60 inches DBH. The Planning Area is located within the Grave Creek and Middle Cow Creek watersheds.

The proposed commercial harvesting would thin from below, generally retaining dominant or co-dominant trees with the greatest crown ratios, and retaining the large remnant trees. The residual stocking after thinning is expected to be about 35 to 110 trees per acre. The residual units would retain at least 40 percent canopy cover in spotted owl dispersal habitat and 60 percent canopy cover in spotted owl nesting, roosting, and foraging habitat. There is a 125 foot no treatment buffer along streams. Treatments within the Riparian Reserve that are outside the no treatment buffer would retain canopy closures above 50%.

The harvested stands would reflect pre-treatment composition and diversity, retaining all species and age classes at a lower density. Cut trees would be removed for commercial utilization. Removal would be conducted with conventional ground based machinery and cable yarding systems. Eight temporary spur roads totaling 2,535 feet are proposed and would be ripped and blocked after harvest is complete.

Whole tree yarding would be utilized to reduce fuel loading within harvest units. Slash at landings would be removed as biomass or piled and burned. Slash remaining in the units after yarding would be lopped and scattered. Created slash within 50 feet of main stem roads would be piled and burned.

B. Land Use Plan Conformance

- *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) including Aquatic Conservation Strategy Objectives;
- *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (*FEIS, 2000 and ROD,2001*);*
- *Final Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (FEIS, 1994 and RMP/ROD, 1995);
- *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004);
- *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985).

The proposed Regor Thin Project is in conformance with the RMP because it is specifically provided for in the following RMP decision(s) to:

1. Consider commercial thinning of stands to control stand density, maintain stand vigor, and place stands on developmental paths so that desired stand characteristics result in the future (RMP, p. 185).

2. Provide habitat for a variety of organisms associated with both late-successional and younger forests (RMP, p. 38).

3. Manage forests so that over time, landscapes that would trend toward a forest composed of stands containing a variety of structures, stands containing trees of varying age and size, and stands with an assortment of canopy configurations (RMP, p. 187).

4. Supply a sustainable source of timber to provide jobs and contribute to community stability (RMP, p. 38) and assure a high level of sustained timber productivity for commodity production (RMP, p. 187).

Unit 1-1 is a 90 year old stand that has been surveyed and buffered where necessary to comply with the Survey and Manage Record of Decision and Standards and Guidelines for Amendments to the Survey, Protection Buffer, and other Mitigation Measure

Standards and Guidelines, as incorporated into 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.

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 Unit 1-1 of the Regor Thin 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).

Previously, in 2006, the District Court (Judge Pechman) had invalidated the agencies' 2004 RODs eliminating Survey and Manage due to NEPA violations. Following the District Court's 2006 ruling, parties to the litigation had entered into a stipulation exempting certain categories of activities from the Survey and Manage standard (hereinafter "Pechman exemptions").

Judge Pechman'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 large wood, channel and floodplain reconstruction, or removal of channel diversions; and
D. The portions of 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."

Following the Court's December 17, 2009 ruling, the Pechman exemptions are still in place. Unit 12-6 is less than 80 years of age and is consistent with Exemption A of the Pechman Exemptions.

C. Best Management Practices and Project Design Features

Best Management Practices (BMPs) are required by the Federal Clean Water Act to reduce nonpoint source pollution to the maximum extent practicable. The BMPs are methods, measures, or practices selected from Appendix D of the 1995 ROD/ RMP to ensure that water quality will be maintained at its highest practicable level. Project Design Features (PDFs) are specific measures included in the site specific design of the Proposal to eliminate or minimize adverse impacts on the human environment.

BMPs

- A no treatment buffer of 125 feet, measured from bankfull width would be used to protect water quality within the stream and perennial springs. This buffer is based on the Ecological Protection Width Needs chart in the Record of Decision for the NWFP Standards and Guidelines (RMP, p. 154).

- Cleaning culvert inlets in stream channels would occur between the low period of flow (generally June 15 to September 15) in accordance with Oregon Department of Fish and Wildlife (ODFW) in-stream work period guidelines (RMP, p. 161)

- Slumps, intermittent seeps, and other unstable areas would be buffered (no treatment) by leaving one row of overstory trees or a 25 foot radius (whichever is greatest), from the outer edge of instability around these areas for soil stabilization (RMP, p. 154).

- Hauling would not occur during wet road conditions, which are considered to result in: continuous mud splash or tire slide, fines being pumped through road surfacing from the subgrade, road drainage causing a visible increase in stream turbidities, surface rutting, or any condition that would result in being chronically routed into tire tracks or away from designed road drainage during precipitation events (RMP, p. 162).

- Material removed during excavation would only be placed in locations where it cannot enter streams or other water bodies (RMP, p. 162)

- Restrict tractor yarding to slopes less than 35% in order to prevent excessive soil disturbance (RMP, p. 166). This would include all ground based yarding systems.

PDFs

Streams and Riparian Zones

- Unless unsafe, trees within Riparian Reserve boundaries (one or two site potential trees) would be directionally felled away from the stream, and upslope trees would not be felled into Riparian Reserves.

- Trees in no-harvest portions of Riparian Reserves that are accidentally knocked over during falling and yarding would be retained on site for fish /wildlife habitat and would not be treated with activity fuels.

- Refuel equipment a minimum of 150 feet away from streams and other waterbodies. Store equipment containing reportable quantities of toxic fluids outside of Riparian Reserves. Hydraulic fluid and fuel lines would be in proper working condition to minimize leakage into streams.

- Ground base yarding would not be allowed when soil moisture at a depth of 4 - 6 inches is wet enough to maintain form when compressed, or when soil moisture at the surface would readily displace, causing ribbons and ruts along equipment tracks. These conditions are generally found when soil moisture, at a depth of 4 - 10 inches, and is between 15 – 25 percent depending on soil type.

Soil Productivity, Sedimentation and Soil Compaction

- Whole tree yarding with tops attached to the last log would be permitted as long as contractor can operate without causing unacceptable damage from bark slippage, girdling, broken tops, or damage to live crowns. If it is determined by the Authorized Officer that unacceptable amounts of damage is occurring, trees would be required to be bucked and limbed as directed by the Authorized Officer. Delivered log length not to exceed 41 feet.

- Productivity loss resulting from topsoil disturbance and soil compaction would not exceed a combined calculated total of 5% of the unit.

- Harvest equipment used off of designated skidtrails would operate on ground less than 35% slope, have an arm capable of reaching at least 20 feet and minimize turning. If equipment exceeds six pounds-per-square-inch (PSI) ground pressure, the harvest equipment must walk on existing or created slash. This slash mat would be a minimum of eight inches in depth prior to the equipment moving onto the slash mat. Additional slash may be required on the slash mat if more than an out and back trip is done by the equipment.

- Existing skidtrails would be used when possible. New skidtrails would be placed at least 150 feet apart where topography will allow. New skidtrails would be located on ground less than 35 percent slope. Skidtrails will not exceed a width of 12 feet on average per unit. New skidtrails shall be located outside of the Riparian Reserve wherever possible and would be pre-designated and approved by the Authorized Officer. The total area compacted by skidtrails would not exceed 12% of the unit.

- Partial suspension (at a minimum) would be required on all units to minimize soil disturbance.

- The number of yarding corridors would be minimized to reduce soil compaction and displacement from cable yarding. Corridors would be located approximately 150 feet apart at the tail end.

Fuels Management

- Pile and cover all activity slash 1 to 6 inches in diameter and greater than 2 feet in length along roads 33-8-13 and 33-7-2.3 and the Mt. Rueben Lookout road within 50 feet of road edge. Each pile would be covered with at least a 4 mm black plastic to create a dry ignition point (generally 5 ft x 5 ft or large enough to cover 80% of the pile). To minimize scorch and mortality, hand piles would not be placed adjacent to or within 10 feet of leave trees or large woody debris.

- A minimum 10 foot area on the ground would be cleared of slash and other vegetation, litter, and debris, around each landing pile to prevent escaped fire. Each landing pile would be covered with at least a 4 mm black plastic to ensure a dry ignition point (generally 10 ft x 10 ft or large enough to cover 80% of the pile). To minimize scorch and mortality, landing piles would not be placed adjacent to or within 15 feet of leave trees. To facilitate desired consumption, landing piles would be as free of dirt as reasonably possible.

- Lop-and-scatter all activity slash outside the hand pile treatment areas. All cut slash will be lopped to no more than 8 feet in length and scattered such that it is less than 18 inches above the forest floor. All slash would be arranged in a discontinuous pattern across the forest floor. If it is determined by the Authorized Officer that unacceptable amounts of damage is occurring from whole tree yarding and other harvest methods, hand piling and hand pile burning of the units may be required. If activity slash exceeds an average of 2 ½ feet above the forest floor and has a continuous patterns exceeding 100 feet in diameter the Authorized Officer and Fuels Specialist will determine if hand piling and hand pile burning of activity slash would be required.

- Piles would be burned in the fall to spring season after one or more inches of precipitation have occurred. Patrol and mop-up of burning piles would occur when needed to prevent treated areas from reburning or becoming an escaped fire.

- Slash piles would not be allowed on roadways, turnouts, shoulders, or on the cut bank.

Air Quality / Smoke Management

- All prescribed burning would be managed in a manner consistent with the requirements of the Oregon Smoke Management Plan administered by the Oregon Department of Forestry and the regulations established by the Air Quality Division of the Oregon Department of Environmental Quality.

Special Status Plant Species

- Survey and Manage, Bureau Sensitive, and Federally Threatened/Endangered plant sites (vascular and nonvascular), if found, would receive a 20-40 foot diameter no-treatment protection buffer.

Noxious Weeds

- In order to prevent the potential spread of noxious weeds into the Medford District BLM, the operator would be required to clean all logging, construction, chipping, grinding, shredding, rock crushing, and transportation equipment prior to entry on BLM lands.

- Cleaning shall be defined as removal of dirt, grease, plant parts, and material that may carry noxious weed seeds into BLM lands. Cleaning prior to entry onto BLM lands may be accomplished by using a pressure hose.

- Only equipment inspected by the BLM would be allowed to operate within the Project Area. All subsequent move-ins of equipment as described above shall be treated the same as the initial move-in.

- Equipment would be visually inspected by the Authorized Officer to verify that the equipment has been reasonably cleaned.

- All disturbed landings and skidtrails shall be seeded and mulched. The operator shall apply native grass seed and Certified Weed Free straw mulch for soil stabilization operations. BLM will furnish native grass seed if available. Certified weed free straw mulch will be the responsibility of the contractor.

Wildlife

- If any spotted owls are discovered, seasonally restrict harvest activities from March 1 through June 30 the following distances of known northern spotted owl sites: 195 feet for chainsaw and 105 feet for heavy equipment.

- No treatment would occur within a designated nest patch of a nesting spotted owl pair.

- To retain suitable microclimatic conditions for Del Norte salamander survival and reproduction, maintain >60% canopy closure at known sites (known site protection includes stands over 80 years of age).

- To retain suitable microclimatic and substrate conditions for Del Norte salamander survival and reproduction, restrict ground disturbing activities (eg

heavy equipment or yarding of trees) that displace or compact the substrate to less than 12% of the known sites.

- For Unit 1-1, it is recommended that habitat or ground disturbing activities and burning within known Del Norte salamander sites occur when salamanders are not surface-active, which is from late spring through early fall (approximately June 15 – October 15; in fall, before 1.5 inches of rain falls), or when environmental conditions are after freezing temperatures in winter.

- For Unit 1-1, handpile burning would be limited to less than 20 percent ground disturbance of a known Del Norte salamander site. Within known sites attempt to burn piles during mid-winter during freezing events, late spring, or early fall, when animals are not surface active.

Cultural Resources

- A cultural resource survey was completed for the project in 2010 and one site was identified on the edge of the Project area. The site will be buffered with flagging prior to project implementation; no treatment would occur within the buffered area and timber will be felled away from the site. If cultural resources are found during project implementation, the project would be redesigned to protect the cultural resource values present, or evaluation or mitigation procedures would be implemented based on recommendations from the Resource Area Archaeologist with concurrence from the Field Manager and State Historic Preservation Office.

D. Compliance with NEPA

The proposed commercial harvesting is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9 (C)(7) "Harvesting live trees not to exceed 70 acres…" in which activities "Shall not include even-aged regeneration harvests or vegetation type conversions."

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment.

E. NEPA Categorical Exclusion Review

The Code of Federal Regulations (43 CFR § 46.215) provides for a review of the following criteria for categorical exclusion to determine if exceptions apply to the proposed action based on actions which may:

1.Have significant adverse effect on public health or safety. **( ) Yes** **(x) No**

Remarks: None

2.Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas. **( ) Yes** **(x) No**

Remarks: Surveys in Planning Area were conducted. No sites are recorded in the project units. If cultural resources are found during project implementation, the project would be redesigned to protect the cultural resource values present, or evaluation and mitigation procedures would be implemented based on recommendations from the Resource Area archaeologist with concurrence from the Field Manager and State Historic Preservation Office.

3.Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. **( ) Yes** **(x) No**
Remarks: None

4.Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental effects. **( ) Yes** **(x) No**
Remarks: None

5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. **( ) Yes** **(x) No**

Remarks: None

6.Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. **( ) Yes** **(x) No**
Remarks: None

7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office. **( ) Yes** **(x) No**
Remarks: None

8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species. **( ) Yes** **(x) No**

Remarks: Consultation for the Endangered Species Act (ESA) with the USFWS has been completed and Letters of Concurrence were issued. Consultation with the NMFS for ESA or the Magnuson-Stevens Fishery Conservation and Management Act is not needed as there is no listed fish species within the Planning Area.

9. Violate a Federal law, or a State, local, or Tribal law or requirement imposed for the protection of the environment. **( ) Yes** **(x) No**

Remarks: None

10.Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). **( ) Yes** **(x) No**
Remarks: None

11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites. (Executive Order 13007). **( ) Yes** **(x) No**
Remarks: None

12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive order 13112). **( ) Yes** **(x)No**

Remarks: None

Prepared by _____ Date: 2/17/11
Martin Lew
Environmental Planner

F. Signature of Authorizing Official

_____ 2/17/11
Katrina Symons, Field Manager Date
Glendale Resource Area

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NEPA CATEGORICAL EXCLUSION DECISION DOCUMENTATION

Decision and Rationale: Based upon the attached Categorical Exclusion, it is my decision to implement the Regor Thin Project described in the Proposed Action including Best Management Practices and Project Design Features.

In addition, I have reviewed the plan conformance statement and have determined that the Proposed Action is in accordance with the approved land use plan and that no further environmental analysis is required. Therefore, an environmental assessment or an environmental impact statement is not needed. It is my decision to implement the Proposed Action in accordance with 43 CFR 5003 –Administrative Remedies.

Implementation Date: If no protest is received by the close of business (4:30 P.M.) within 15 days after publication of the Notice of Sale, this decision would become final and may be implemented immediately.

Katrina Symons, Field Manager
Glendale Resource Area

Date

Administrative Review: The decision described in this document is a forest management decision and is subject to protest by the public. In accordance with Forest Management Regulations at 43 CFR § 5003 Administrative Remedies, protests of this decision may be filed with the authorized officer Katrina Symons within 15 days of the publication of the notice of decision/timber sale advertisement in the Grants Pass Courier.

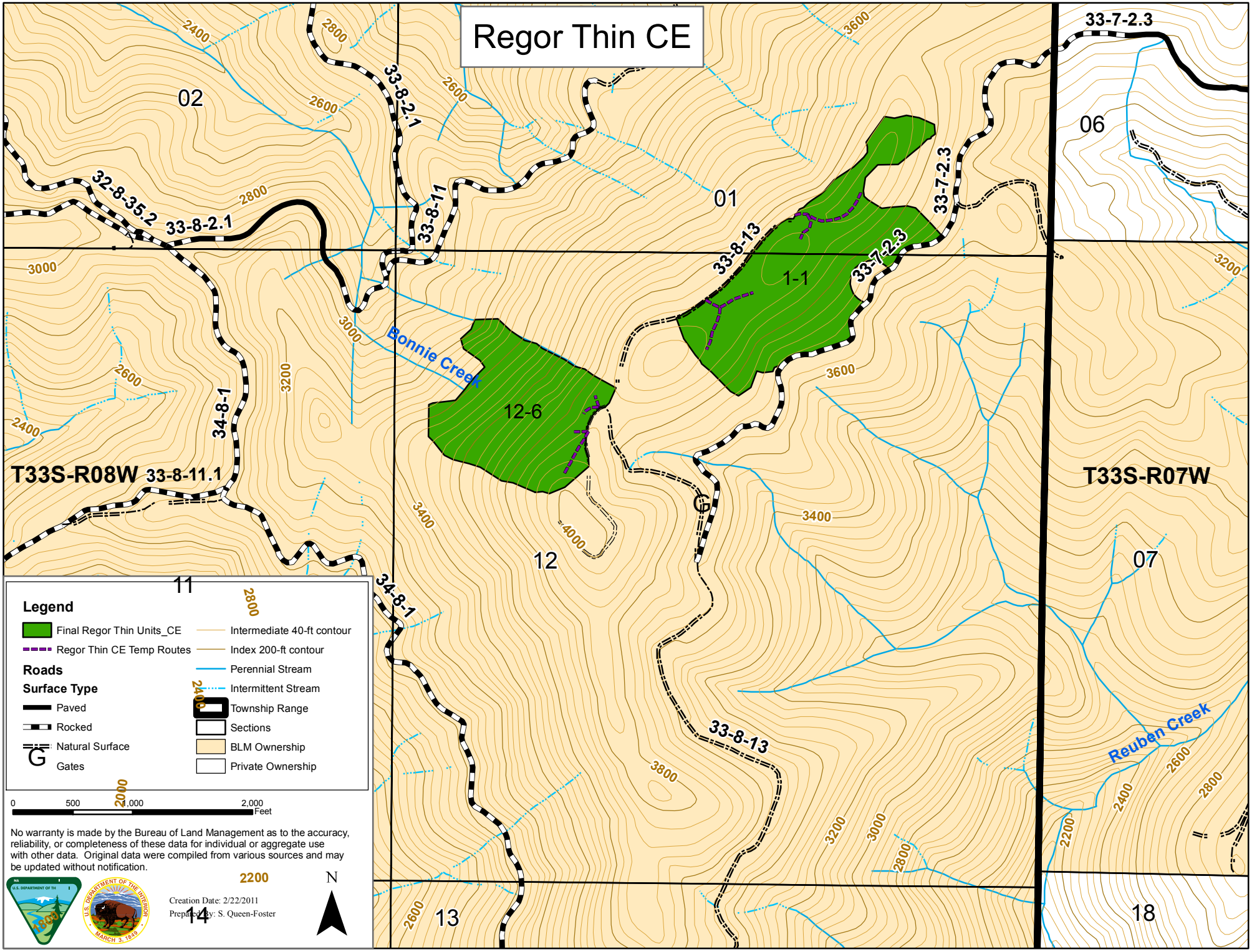
43 CFR § 5003.3 subsection (b) states, "Protests shall be filed with the authorized officer and shall contain a written statement of reasons for protesting the decision." This precludes the acceptance of electronic mail (email) or facsimile (fax) protests. Only written and signed hard copies of protests that are delivered to the Grants Pass Interagency 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: "Protest 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 available 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 close of business (4:30 pm) within 15 days after publication of the notice of sale, the decision will become final.

For further information concerning this decision contact Martin Lew, Planning and Environmental Coordinator, telephone (541) 471-6504, 2164 NE Spalding Avenue, Grants Pass, Oregon 97526.

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