

Determination of NEPA Adequacy (DNA)

U.S. Department of the Interior
Bureau of Land Management

Office: **Grants Pass Resource Area**

Tracking Number:

Casefile/Project Number: DOI-BLM-OR-M080-2011-005-DNA

Proposed Action Title/Type: Double Rum Timber Sale

Location/Legal Description of Units:

T34S-R8W-Section 10, 15, 21

A. Description of the Proposed Action and any applicable mitigation measures

The Rum Creek Timber Sale (OR110-TS06-28) had a mutual cancellation of the timber sale contract on June 22, 2009. The Medford District is proposing to re-offer the cancelled timber sale for bid under the name Double Rum Timber Sale, so the treatments authorized under the Rum Creek Landscape Management Project Decision Record may be completed. The Double Rum Timber Sale is 41 acres of commercial thinning in the Late-Successional Reserve land use allocation under the Medford District's 1995 RMP and within the Late Successional Management Area land use allocation under the 2008 RMP. The Double Rum Timber Sale has units located in 1992 Northern Spotted Owl Critical Habitat (CHU) OR#65 and within revised Critical Habitat (2008, #14; [Federal Register \(73\): 47326-47522](#)), as designated by the U.S. Fish and Wildlife Service; however, treatments would retain the primary constituent elements for northern spotted owl habitat so that its function would be maintained.

For Unit 21-14A and 21-14B, 0.35 miles of existing road would be re-constructed to access these units. The Rum Creek Landscape Project EA analyzed 0.40 miles of road opening to access these units.

Table 1. Double Rum Timber Sale Units

Original Timber Sale	Unit	Acres	Logging System	Prescription
Rum Creek	10-8A	3	tractor	Commercial Thin (for all units listed in this table)
	10-8B	6	cable	
	10-10	2	tractor/cable	
	10-16	2	tractor	
	15-4	1	tractor	
	15-9A	4	tractor	

Original Timber Sale	Unit	Acres	Logging System	Prescription
	15-9B	2	cable	
	15-14	1	cable	
	15-17	3	cable	
	21-14A	8	tractor	
	21-14B	9	cable	

The purpose of this DNA is to document the recent review of this project for compliance with laws, regulations, executive orders, and Bureau direction, and to determine if additional environmental disclosures or changes to the Rum Creek Landscape Management Project Environmental Assessment (EA# OR-117-06-01) are necessary as a result of commercial thinning of 41 acres under the Double Rum Timber Sale.

B. Land Use Plan (LUP) Conformance

The Medford District initiated planning and design for this project to conform and be consistent with the Medford District's 1995 RMP. 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 both the 1995 RMP and the 2008 ROD and RMP. Based upon this review, the selected alternative contains some design features not mentioned specifically in the 2008 ROD and RMP. The 2008 ROD and RMP did not preclude use of these design features, and the use of these design features is clearly consistent with the goals and objectives in the 2008 ROD and RMP. Accordingly, this project is consistent with the Medford District's 1995 RMP and the 2008 ROD/RMP.

The Double Rum Timber Sale is consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, 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. 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:

Thinning projects in stands younger than 80 years old (emphasis added);

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;

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

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. 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. Nevertheless, the Double Rum Timber Sale has been reviewed by the Grants Pass Resource Area in consideration of both the December 17, 2009 and October 11, 2006 order. Because the Double Rum Timber Sale entails no regeneration harvest and entails thinning in stands less than 80 years old, the project meets Exemption A of the Pechman Exemptions (October 11, 2006 Order), and therefore may be considered for sale offering.

C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.

Environmental Assessments

Rum Creek Landscape Management Project Environmental Assessment (EA#OR-117-06-01)

Watershed Analyses

Wild Rogue - South Watershed Analysis (2000)

Rogue-Recreation Section Watershed Analysis for the Big Hog Watershed (1999)

Late Successional Reserve Assessment

Southwest Oregon Late-Successional Reserve Assessment (1995)

Consultation

United States Fish and Wildlife Service

A Letter of Concurrence (LOC) was issued by the U.S. Fish and Wildlife Service (USFWS) in 2007 (Tails# 13420-2007-1-0133), which concurred with the effects determination made by the Medford District BLM that the proposed action is a “may affect, not likely to adversely affect” to the spotted owl and its habitat and would not adversely modify critical habitat. The Double Rum Timber Sale would implement all applicable Project Design Criteria in accordance with the U.S. Fish and Wildlife Service LOC.

The Rum Creek Landscape Management EA (p. 38) stated "The project area is within the range for the federally listed species *Fritillaria gentneri* and *Lornatium cookii*". This statement was corrected in the Errata section of the Rum Creek Landscape Management Project Decision Record signed in August 2006, which clarified that , “[t]he project is well outside of the range of *Lornatiurn cookii* and is just outside of the range of *Fritillaria gentneri*....The project area is not within the range of the federally listed species *Fritillaria gentneri* and *Lornattum cookii*". The EA also incorrectly indicated that vascular plant surveys have been completed on a 6 acre unit identified for variable thinning. This unit was surveyed in August 2006 and no Bureau Sensitive, Bureau Assessment and State Threatened vascular plant species were found. Since that time a follow-up survey has been completed for this 6 acre unit and no sites of special status species were found.

National Marine Fisheries Service

The fisheries biologist documented a determination that no effect would occur on the Southern Oregon/ Northern California (SO/NC) coho salmon, its critical habitat, or Essential Fish Habitat (EFH) in August 2006.

D. NEPA Adequacy Criteria

- 1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?**

The units proposed for the Double Rum Timber Sale have the same prescriptions, acreages for each unit listed in Section A, or less acreage for each of the original units analyzed in the Rum Creek Landscape Management Project Environmental Assessment (EA#OR-117-06-01).

Interdisciplinary specialists reviewed the proposed Double Rum Timber Sale. There are no changes to the previous Rum Creek Timber Sale. The adequacy of the analysis contained in the Rum Creek Landscape Management Project EA (EA#OR-117-06-01) is sufficient and has not altered.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?

The range of alternatives analyzed in the Rum Creek Landscape Management Project EA (EA#OR-117-06-01) are still appropriate as the Double Rum Timber Sale units have the same silvicultural prescription and units; the project maintains northern spotted owl habitat by retaining 40% canopy closure in dispersal habitat (consistent with ESA consultation documents) and complies with recent court orders related to Survey and Manage as the stands proposed for treatment are less than 80 years old.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

See response to question 1 and 2.

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

See response to question 1. The actions of the Double Rum Timber Sale are fully analyzed in the Rum Creek Landscape Management Project EA (EA#OR-117-06-01).

Spotted owl surveys would be conducted for the historical spotted owl sites adjacent to the actions of the Double Rum Timber Sale. A Letter of Concurrence (LOC) was issued by the U.S. Fish and Wildlife Service (USFWS) in 2007 (Tails# 13420-2007-1-0133), which concurred with the effects determination made by the Medford District BLM that the proposed action is a “may affect, not likely to adversely affect” to the spotted owl and its habitat and would not adversely modify critical habitat. The Double Rum Timber Sale would implement all applicable Project Design Criteria in accordance with the U.S. Fish and Wildlife Service LOC.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Public involvement and interagency review for the EA were adequate. The EA was available for a 30 public comment period in 2006. BLM received three comment letters on the Rum Creek Landscape Management Project EA. All comments were considered in reaching the decision and were responded to in the Rum Creek Landscape Management Project Decision Record. The Decision Record deferred 177 acres of fuels treatments and 34 acres of young stand management treatments until additional inventory data regarding resource conditions could be collected. The reduction in units and acres were reviewed by interdisciplinary specialists and were assessed to be minor and to not change the scope of the project analyzed,

do not affect the adequacy of the analysis contained in the EA, or the conclusions documented in the FONSI for the EA. The environmental effects do not meet the definition for significance in context or intensity as defined in 40 CFR § 1508.27.

No protests were received on the Decision Record for the Rum Creek Landscape Management Project.

The Double Rum Timber Sale DNA will be made available for public review via the Medford District BLM website: <http://www.blm.gov/or/districts/medford/plans/index.php>.

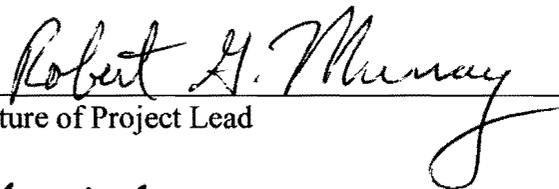
E. Persons/Agencies /BLM Staff Consulted

Name	Title	Resource Represented
Bob Murray	Forester	Logging Systems
Robin Snider	Wildlife Biologist	Wildlife
Mike De Blasi	Hydrologist	Water Quality and Soils
Jon Raybourn	Fisheries Biologist	Fisheries
Jim Roper	Civil Engineering Technician	Roads & Gates
Jon Larson	Fuels Specialist	Fire Risk and Hazard

Note: Refer to each of the EAs for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

Conclusion

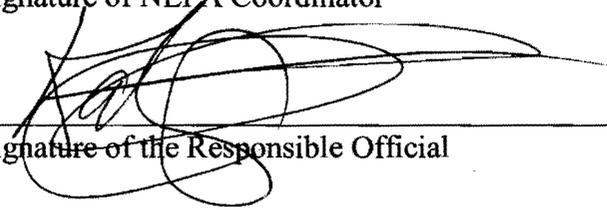
Based on the review documented above, I conclude that this proposal conforms to the applicable land use plans and that the NEPA documentation fully covers the Proposed Action and constitutes BLM's compliance with the requirements of NEPA.

 6/13/11

 Signature of Project Lead

 6/13/11

 Signature of NEPA Coordinator

 6/14/11

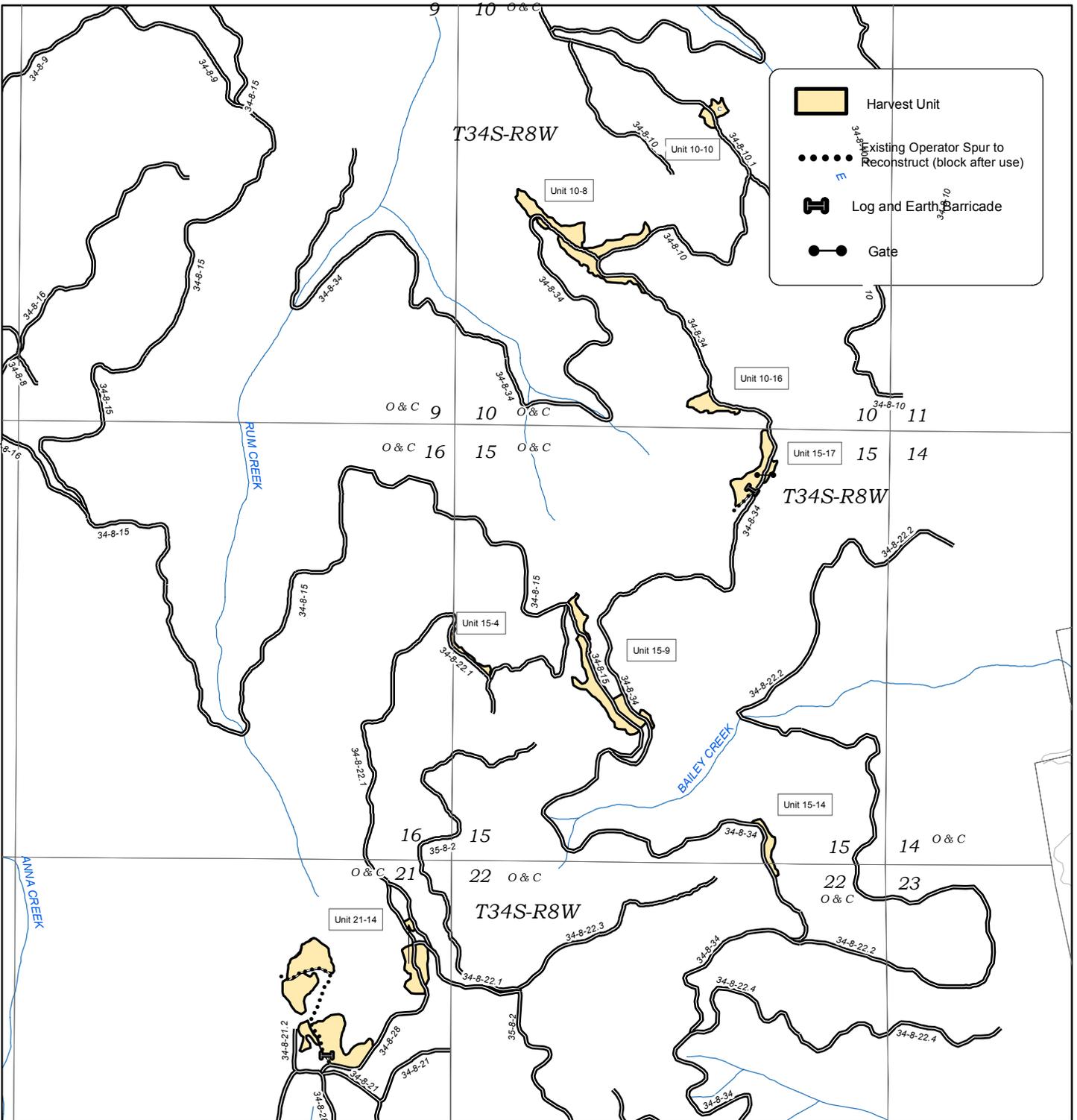
 Signature of the Responsible Official Date

Note: The signed *Conclusion* on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. The original Rum Creek Timber

Sale notice was released on August 31, 2006, followed by a 15-day protest period as required by 43 CFR 5003.3. The principle of administrative finality precludes any further protest of the original Rum Creek Timber Sale. There have been no changes to the re-offered component of the Double Rum Timber Sale being offered for sale here. Consequently, there is no new protest opportunity, and this decision is effective immediately upon issuance of the timber sale notice.

Double Rum Timber Sale
 Grants Pass Resource Area
 June, 2011

T.34S., R.8W., SECTION 21
 T.34S., R.8W., SECTION 10
 T.34S., R.8W., SECTION 15, 16 AND 22



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