

**U.S. Department of the Interior  
Bureau of Land Management  
Roseburg BLM District, Oregon**

**Clever Beaver  
Density Management**

**Decision Document**

**SECTION 1 – THE DECISION**

**Decision**

It is my decision to authorize the Clever Beaver Density Management timbersale as described in the Clever Beaver Density Management Environmental Assessment (EA) in Chapter 2 (NEPA#: DOI-BLM-OR-R040-2010-002-EA; pgs. 4-11) and as updated below (q.v. pgs. 1-6). The Project Design Features that will be implemented as part of Clever Beaver are described on pages 5-11 of the EA. These project design features have been developed into contract stipulations and will be implemented as part of the timber sale contract.

Clever Beaver Density Management will occur on nine units (approximately 229 acres) of second-growth forest approximately 49-60 years old located in the Upper Smith River and Upper Siuslaw Watersheds in Sections 25, 27, 33, and 35 of T. 20 S., R. 6 W. Willamette Meridian (Table 1; Figure 1). In addition, approximately 4 acres will be removed for the development of spur roads and rights-of-ways.

This project is within the Late Successional Management Area (LSMA), Riparian Management Area (RMA), and the Timber Management Area (TMA) Land Use Allocations (Table 1; Figure 2) under the 2008 *Roseburg District Record of Decision and Resource Management Plan* (2008 ROD/RMP). Clever Beaver will provide approximately 4.782 million board feet (4.782 MMBF) of timber available for auction.

**Updated Information**

The updated information, described below, has been considered, but does not alter the conclusions of the analysis.

1) Unit Configuration:

Within Clever Beaver there will be approximately 40 acres of ground-based yarding and approximately 189 acres that will be cable-yarded (formerly 11 acres were proposed as ground-based yarding only, 57 acres were proposed for cable-yarding only, and 233 acres were proposed as a combination of ground-based and/or cable-yarding in the EA, pg. 5). In addition, there will be approximately 4 acres removed for the development of spur roads and rights-of-ways through ground-based yarding (Table 1).

Approximately 68 acres will be excluded (net difference) from the final unit configuration of Clever Beaver as compared to what was described in the EA (301 acres, 4 acres of which were for right-of-way clearing; pg. 4) for the following reasons:

- Approximately 60 acres will be excluded from thinning because it is within “no-harvest” stream buffers (i.e. 35 or 60 feet [EA, pg. 6]) or in blind areas created by the convergence of these stream buffers.
- Approximately 5 acres will be excluded from thinning because they are within areas that have poor stocking and low volume and are not currently considered suitable for thinning.
- Approximately 3 acres will be excluded from harvest (net subtraction) as a result of refinements and adjustments in map accuracy from GPS locations of unit boundaries.

**Table 1. Clever Beaver Unit Acreage.**

Unit	EA Unit	Township-Range-Section	Unit Acres (acres)	Land Use Allocation (acres)			Roads/Rights-of-Way* (acres)
				LSMA	RMA	TMA	
1	27A	T20S-R06W-Sec. 27	41	0	11	30	0.5
2	27B	T20S-R06W-Sec. 27	20	0	2	18	0
3	27C	T20S-R06W-Sec. 27	30	0	4	26	0.1
4	33A	T20S-R06W-Sec. 33	13	13	0	0	0
5	33C	T20S-R06W-Sec. 33	2	2	0	0	0
6	33B	T20S-R06W-Sec. 33	16	16	0	0	0
7	35B	T20S-R06W-Sec. 35	9	0	2	7	0
8	35A	T20S-R06W-Sec. 35	45	0	6	39	1.8*
9	25A & 25B	T20S-R06W-Sec. 25	53	0	6	47	1.3
<b>Total</b>			<b>229</b>	<b>31</b>	<b>31</b>	<b>167</b>	<b>3.7</b>

\* 3.3 acres of Roads/Rights-of-Way will be within the Timber Management Area and 0.4 acres (in Unit 8) will be within the Riparian Management Area.

2) Roads & Spurs:

The spur roads in Clever Beaver have been re-numbered as shown below in Table 2: *Clever Beaver Roads & Spurs*. There will be approximately 5,305 feet of spur roads constructed (formerly 5,995 feet were proposed in the EA, pgs. 4, 8-9). There will be approximately 690 feet (net difference) less road construction than in the EA because proposed spurs CB1 and CB6 will not be built and the remaining spurs are shorter than anticipated. There will be no additional rock roads constructed in Clever Beaver.

Approximately 20,195 feet of existing road will be renovated (formerly 28,883 feet were proposed in the EA, pgs. 4, 8-9). There will be approximately 8,688 feet (net difference) less road renovation than in the EA because proposed renovation of the 20-6-33.8 and 20-6-34.0 roads is not necessary and the remaining roads also require less renovation than anticipated in the EA. Renovation will include the placement of additional road rock where rock surfacing already exists, brushing of road shoulders, and blading of the driving surface.

**Table 2. Clever Beaver Roads & Spurs<sup>1</sup>**

Spur/Road #		Construction	Renovation	Surfacing		Decommissioning	
(in the EA)	(in Decision)	(feet)	(feet)	Existing	Proposed	(feet)	How Decommissioned
Spur CB1	<i>Will not be constructed</i>	-	-	-	-	-	-
Spur CB2	Spur 1	670	0	none	Native	670	Water-bar, sub-soil, mulch, block
Spur CB3	Spur 2	705	0	none	Native	705	Water-bar, sub-soil, mulch, block
Spur CB4	Spur 3	1,120	0	none	Native	1,120	Water-bar, sub-soil, mulch, block
Spur CB5	Spur 4	2,635	0	none	Native	2,635	Water-bar, sub-soil, mulch, block
Spur CB6	<i>Will not be constructed</i>	-	-	-	-	-	-
Spur CB7	Spur 5	175	0	None	Native	175	Water-bar, sub-soil, mulch, block
20-6-25.1	20-6-25.1	0	1,070	Native	Native	1,070	Water-bar, mulch, block <sup>2</sup>
20-6-26.0	20-6-26.0	0	2,095	Native	Native	2,095	Water-bar, mulch, sub-soil, block
		0	3,800	Rock	Rock	0	none
20-6-.27.0	20-6-.27.0	0	1,710	Rock	Rock	0	none
20-6-27.1	20-6-27.1	0	845	Native	Native	845	Water-bar, sub-soil, mulch, block
20-6-27.2	20-6-27.2	0	320	Rock	Rock	0	none
20-6-33.1	20-6-33.1	0	370	Native	Native	370	Water-bar, sub-soil, mulch, block
20-6-33.3	20-6-33.3	0	6,585	Rock	Rock	0	none
20-6-33.8	20-6-33.8 <sup>3</sup>	0	0	Rock	Rock	0	none
20-6-34.0	20-6-34.0 <sup>3</sup>	0	0	Rock	Rock	0	none
20-6-36.0	20-6-36.0	0	3,400	Native	Native	3,400 <sup>4</sup>	Water-bar, sub-soil <sup>4</sup> , mulch, block
<b>TOTAL</b>		<b>5,305</b>	<b>20,195</b>			<b>13,085</b>	

<sup>1</sup> Approximately 17,530 feet of existing roads would be maintained for Clever Beaver in addition to the roads and spurs described in the table.

<sup>2</sup> The 20-6-25.1 road is a privately controlled road that provides access to adjacent private lands; therefore it will not be sub-soiled.

<sup>3</sup> The 20-6-33.8 and 20-6-34.0 roads do not require renovation as proposed in the EA but will still be used under this project.

<sup>4</sup> Approximately 2,000 feet of the 20-6-36.0 road will be subsoiled and 1,400 feet of the 20-6-36.0 road will not be subsoiled because it provides access to adjacent private lands.

In addition, approximately 13,085 feet of roads and spurs will be decommissioned in Clever Beaver (formerly 13,180 feet were proposed in the EA, pgs. 4, 8-9). Subsoiling will occur on approximately 10,615 feet of spurs and roads as identified above in Table 2 (formerly 8,895 feet of spurs and roads were identified for subsoiling in the EA [pg. 9, Table 3]). Overall, there will be less decommissioning authorized in this decision than proposed in the EA because there will be less road construction and renovation of spurs and roads than was previously identified in the EA (pgs. 4, 8-9).

3) Consultation with the U.S. Fish & Wildlife Service:

Consultation with the U.S. Fish & Wildlife Service has been completed for the northern spotted owl for *Actions Proposed by the Roseburg District BLM for Fiscal Years 2011-2013*. A Biological

Opinion was received from the USFWS (*Roseburg District BLM Fiscal Year 2011-2013 Program of Activities* [Tails#: 13420-2011-F-0012]) dated December 28, 2010. The Biological Opinion stated (pgs. 64-65) that thinning of dispersal habitat is *likely to adversely affect* spotted owls by negatively affecting forage species (e.g. flying squirrels) that the owls may feed upon. However, the USFWS concluded in their Biological Opinion (pg. 82, Ref. No. 13420-2011-F-0012) that the Roseburg District's program of density management (which included the Clever Beaver project) *are not likely to jeopardize the continued existence* of the spotted owl because thinning is not likely to completely eliminate mammalian prey species and the network of reserved land use allocations would maintain a sufficient amount of dispersal habitat.

4) Updated Effects to Northern Spotted Owl Habitat:

Approximately 68 acres will be excluded from the final unit configuration of Clever Beaver (as noted on pg. 1), therefore impacts to dispersal-only habitat for the northern spotted owl has been re-analyzed and is presented below (Tables 3 and 4).

**Table 3. Northern Spotted Owl Habitat within Known Home Ranges near Clever Beaver Density Management** (update to Table 6 from the EA, pgs. 18-19).

Northern Spotted Owl Site (IDNO) <sup>1</sup>		Federal Land (acres)	Habitat on Federal Lands Only (acres)			
			Suitable Habitat		Dispersal-Only Habitat	
			Current Condition	Habitat Modified through Proposed Action	Current Condition	Habitat Modified <sup>2</sup> through Proposed Action
CLEVENGER CREEK (1918O)	Home Range (4,524 acres)	1,987	1,265	0	262	98
	Core Area (502 acres)	230	122	0	39	31
	Nest Patch (70 acres)	64	13	0	15	13
ELK BEAVER CREEK (0016O)	Home Range (4,524 acres)	2,029	779	0	373	4
	Core Area (502 acres)	368	62	0	91	0
	Nest Patch (70 acres)	70	28	0	35	0
GUNTER REC (4662A)	Home Range (4,524 acres)	2,206	510	0	1,171	102
	Core Area (502 acres)	167	65	0	53	0
	Nest Patch (70 acres)	45	32	0	13	0
HEFTY CREEK (2040O & A)	Home Range (4,524 acres)	2,088	1,074	0	390	157
	Core Area (502 acres)	437	274	0	90	53
	Nest Patch (70 acres)	70	61	0	5	3
LOWER BUCK CREEK (0015D & E)	Home Range (4,524 acres)	2,131	890	0	551	52
	Core Area (502 acres)	358	128	0	175	0

Northern Spotted Owl Site (IDNO) <sup>1</sup>		Federal Land (acres)	Habitat on Federal Lands Only (acres)			
			Suitable Habitat		Dispersal-Only Habitat	
			Current Condition	Habitat Modified through Proposed Action	Current Condition	Habitat Modified <sup>2</sup> through Proposed Action
	Nest Patch (70 acres)	70	41	0	13	0
PLANK CREEK (3905O, A-B)	Home Range (4,524 acres)	2,067	768	0	988	116*
	Core Area (502 acres)	204	113	0	12	0
	Nest Patch (70 acres)	36	32	0	0	0
SF SMITH RIVER (0260O, A-B, C & D)	Home Range (4,524 acres)	2,342	2,005	0	454	16
	Core Area (502 acres)	304	302	0	0	0
	Nest Patch (70 acres)	64	64	0	0	0
SMITH FOLLEY (2052C)	Home Range (4,524 acres)	2,788	2,077	0	340	18
	Core Area (502 acres)	65	164	0	63	0
	Nest Patch (70 acres)	53	53	0	0	0
SMITH CREEK WEST (1937O & A)	Home Range (4,524 acres)	239	1,237	0	589	195
	Core Area (502 acres)	277	100	0	33	26
	Nest Patch (70 acres)	55	46	0	9	0
Upper Buck Creek (0019O)	Home Range (4,524 acres)	2,075	877	0	523	38
	Core Area (502 acres)	407	137	0	47	0
	Nest Patch (70 acres)	70	29	0	8	0

<sup>1</sup> Bold IDNO indicates which activity center (based on most recent spotted owl use) within an owl site was used for the habitat analysis.

<sup>2</sup> Under the Proposed Action dispersal-only habitat would have a reduction in quality but would maintain its function.

\* In the EA, this was a typographical error reported as “14” acres while it should have read “143” acres for acreage of dispersal-only habitat modified within the Plank Creek home range.

*Home Range* –Approximately 229 acres of dispersal-only habitat will be modified by thinning activities within the home ranges of ten known spotted owl sites (including nineteen activity centers) (Table 3). Formerly, the modification of 301 acres of dispersal-only habitat was considered in the EA (pgs. 19-20, Table 7). Unit reconfiguration reduced the amount of dispersal-only habitat modified within the ten home ranges from 0.2-6 percent (12-267 acres) of individual spotted owl home ranges (EA, pgs. 18-19, Table 6) to 0.08-4 percent (4-195 acres) of individual home ranges (Table 3 above).

*Core Area* – A total of 95 acres of dispersal-only habitat will be thinned within the core areas associated with three spotted owl activity centers (Tables 3 and 4). Formerly, the modification of a total of 78 acres of dispersal-only habitat was considered in the EA (pgs. 19-20, Table 7). The information presented in the EA (pgs. 18-19, Table 6) for the core area analysis inadvertently omitted acres for Unit 1 (EA Unit 27A, 40 acres) and Unit 2 (EA Unit 27B, 5 acres). The total unit acres within core areas should have been reported as 128 acres instead of 78 acres in the EA. The omission of these acres did not alter the overall analysis of effects spotted owls since the EA considered that between 7-18 percent (33-90 acres) of individual core areas (EA, pgs. 18-19, Table 6) would be modified; after unit reconfiguration, between 5-11 percent (26-53 acres) of individual core areas will be affected (Table 3 above).

In addition, the EA (pgs. 18-19, Table 6) provided analysis of effects for core areas of five spotted owl activity centers (i.e. Clevenger Creek 1918O, Hefty Creek 2040O and 2040A, and Smith Creek West 1937O and 1937A). However, for this decision effects to core areas of three spotted owl activity centers (i.e. Clevenger Creek 1918O, Hefty Creek 2040O, and Smith Creek West 1937O) were re-tabulated based on unit reconfiguration. The alternate sites for Hefty Creek (i.e. 2040A) and Smith Creek West (i.e. 1937A) were not re-tabulated in order to be consistent with the methodology used in the Biological Assessment (*Actions Proposed by the Roseburg District BLM for Fiscal Years 2011-2013*) and the Biological Opinion for this sale (Ref. No. 13420-2011-F-0012) where only those activity centers most recently occupied by spotted owls within a territory were analyzed.

*Nest Patch* – A total of 16 acres of dispersal-only habitat will be modified within the nest patches of two known spotted owl sites (Clevenger Creek, IDNO 1918O and Hefty Creek, IDNO 2040O; Table 3). Formerly, the modification of 20 acres of dispersal-only habitat within the nest patch was considered in the EA (pgs. 19-20, Table 7).

Approximately 13 acres (19 percent of the nest patch) of Unit 4 (33A) is within the nest patch of the Clevenger Creek owl site (IDNO 1918O); formerly 15 acres (21 percent of the nest patch) of dispersal-only habitat modification were considered in the EA (pgs. 18, 20; Table 6). On February 7, 2011, the U.S. Fish and Wildlife Service and the BLM jointly determined, that treatment of dispersal-only habitat within the Clevenger Creek nest patch is not expected to adversely affect spotted owls because “*the activity center is likely to be unoccupied and that the incidental take of this activity center due to harvest activities within the nest patch is not anticipated*” (USFWS/BLM Level 1 Team Meeting Notes, February 7, 2011). This determination is based upon surveys indicating the lack of a resident pair of spotted owls for 20+ years (since the establishment of the activity center) and the lack of any resident spotted owl detections (USFWS/BLM Level 1 Team Meeting Notes, February 7, 2011).

Approximately three acres (four percent of the nest patch) is within the nest patch of the Hefty Creek owl site (IDNO 2040O); formerly five acres (seven percent of the nest patch) of dispersal-only habitat modification were considered in the EA (pgs. 18, 20-21; Table 6). On February 7, 2011, the U.S. Fish and Wildlife Service and the BLM jointly determined, that treatment of dispersal-only habitat within the Hefty Creek nest patch is not expected to adversely affect spotted owls because “*the activity center is likely to be unoccupied and that the incidental take of this activity center due to harvest activities within the nest patch is not anticipated*” (USFWS/BLM Level 1 Team Meeting Notes, February 7, 2011). This determination is based upon surveys indicating the lack of a resident pair of spotted owls for 10+ years and lack of any

resident spotted owl detection since 2003 (USFWS/BLM Level 1 Team Meeting Notes, February 7, 2011).

**Table 4. Northern Spotted Owl Habitat within Clever Beaver Proposed Units** (*update to Table 7 from the EA, pg. 19*).

Unit	Unit Acres	Unit Acres within...						Unit Total	
		Nest Patch		Core Area		Home Range		Suitable Habitat	Dispersal -only Habitat
		Suitable Habitat	Dispersal -only Habitat	Suitable Habitat	Dispersal -only Habitat	Suitable Habitat	Dispersal -only Habitat		
1 (27A)	41	0	0	0	41	0	41	0	41
2 (27B)	20	0	3	0	20	0	20	0	20
3 (27C)	30	0	0	0	3	0	30	0	30
4 (33A)	13	0	13	0	13	0	13	0	13
5 (33C)	2	0	0	0	2	0	2	0	2
6 (33B)	16	0	0	0	16	0	16	0	16
7 (35B)	9	0	0	0	0	0	9	0	9
8 (35A)	45	0	0	0	0	0	45	0	45
9 (25A & 25B)	53	0	0	0	0	0	53	0	53
<b>TOTAL</b>	<b>229</b>	<b>0</b>	<b>16</b>	<b>0</b>	<b>95*</b>	<b>0</b>	<b>229</b>	<b>0</b>	<b>229</b>

\* The EA provided this analysis for the core areas of five spotted owl activity centers. However, to be consistent with analysis presented in the Biological Opinion for this sale, the alternate site for Hefty Creek (IDNO 2040A) and Smith Creek West (IDNO 1937A) were dropped from this portion of the analysis.

5) Additional Marbled Murrelet Restrictions:

Marbled murrelet surveys were completed (in 2009-2010) within the southwest portion of and east of Unit 9 (EA Units 25A and 25B; EA, pg. 10-11) following the Pacific Seabird Group protocol (Mack et al., 2003). The presence of murrelets was detected outside and east of Unit 9. However, occupancy was not determined in this portion of the stand. Suitable habitat to the north of Unit 9 was surveyed in 2010 where surveys determined that murrelets were also present. However, it is unknown if the stand is “occupied” by murrelets and therefore requires another year of surveys in 2011 (Mack et al. 2003). Therefore, Daily Operating Restrictions from April 1 to August 5 will be enforced in Unit 9 in order to facilitate completion of marbled murrelet surveys north of Unit 9, and may be lifted once surveys are complete. If surveys detect murrelet occupancy, then harvest activities (e.g. falling, bucking, and yarding of timber) within 100 yards of the occupied stand will be seasonally restricted from April 1<sup>st</sup> through August 5<sup>th</sup> and would have Daily Operating Restrictions applied from August 6<sup>th</sup> through September 15<sup>th</sup>.

**Compliance and Monitoring**

Compliance with this decision will be ensured by frequent on-the-ground inspections by the Contracting Officer’s Representative. Monitoring will be conducted as indicated in the EA (pg. 1).

## SECTION 2 – THE DECISION RATIONALE

The Project Design Features described in the Clever Beaver Density Management EA (pgs. 5-11) will minimize soil compaction, limit erosion, protect slope stability, protect wildlife habitat, protect fish habitat, protect air and water quality, as well as protect other identified resource values. I have reviewed the resource information contained in the EA and the updated information presented in this decision.

### Conformance

The Roseburg District initiated planning and design for this project to conform and be consistent with the Roseburg 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 Roseburg District's 2008 ROD/RMP, we evaluated this project for consistency with both the 1995 RMP and the 2008 ROD/RMP. Based upon this review, the selected alternative contains some design features not mentioned specifically in the 2008 ROD/RMP.

The thinning prescription for Clever Beaver was designed and trees were marked using Late Successional Reserve (LSR) management direction under the 1995 ROD/RMP. This thinning prescription will promote increased diameter growth, improved stem and root strength, cessation of crown recession, release of understory vegetation and increased potential for new tree and shrub understory regeneration (EA, pg. 14). Implementation of this LSR-based marking prescription on 167 acres of Clever Beaver (Table 1) is not entirely consistent with management direction for the TMA under the 2008 ROD/RMP (pg. 38) that directs BLM to “[m]aintain stand densities through commercial thinning at levels above that needed to occupy the site, but below densities that will result in the loss of stand vigor and health”. Following thinning the site will not be fully occupied by conifers (e.g. Relative Density > 0.35) due to the release of the understory vegetation and shrub regeneration (EA, pg. 14); however, thinning will maintain or increase growth rates of retained species and promote stem quality and tree vigor (EA, pg. 15).

The 2008 ROD/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/RMP. Accordingly, this project is consistent with the Roseburg District's 1995 RMP and the 2008 ROD/RMP.

The implementation of this project will not have significant environmental effects beyond those already identified in the 2008 Final EIS/Proposed RMP. Clever Beaver Density Management does not constitute a major federal action having significant effects on the human environment; therefore, an environmental impact statement will not be prepared.

Chapter 2 of the EA describes two alternatives: a "No Action" alternative and a "Proposed Action" alternative. The No Action alternative was not selected because it did not meet the stated need and purpose of the Clever Beaver Density Management project (EA, pg. 1) to reduce stand densities through thinning prescription to improve wildlife habitat. In addition, the No Action alternative would not meet the following specific objectives from the Clever Beaver Density Management EA (pgs. 2-3):

- Comply with Section 1 of the O&C Act (43 USC § 1181a) which stipulates that O & C Lands be managed “... for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities...”
- Select logging systems based on the suitability and economic efficiency of each system for the

successful implementation of the silvicultural prescription, for the protection of soil and water quality, and for meeting other land use objectives. Also, provide a harvest plan flexible enough to facilitate harvesting within a three year timber sale contract.

- Seek a balance between reducing the risk of wildfire and a fuel profile that supports land allocation objectives.
- Protect and enhance conditions of late-successional and old-growth forest ecosystems, which serve as the habitat for the northern spotted owl and other late-successional and old growth species.
- Apply silvicultural treatments that would be beneficial to the creation of late-successional forest conditions and would put stands on a developmental pathway that would reduce the risk of stand loss to maintain long-term habitat viability.

### Survey & Manage

The Clever Beaver Density Management project is consistent with Court Orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Roseburg District's 1995 ROD/RMP.

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.) (Judge Coughenour), 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 referred to as "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 (emphasis added);
- (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. 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, I have reviewed the Clever Beaver Density Management project in consideration of both the December 17, 2009 and October 11, 2006 Orders. Because the Clever Beaver project entails no regeneration harvest and entails thinning only in stands 49-60 years old, I have made the determination that this project meets exemption "a" of the

Pechman Exemptions (October 11, 2006 Order) and therefore may still proceed to be offered for sale even if the District Court sets aside or otherwise enjoins use of the 2007 *Survey and Manage Record of Decision* since the Pechman Exemptions would remain valid in such case. The first notice for sale will appear in *The News-Review*, Roseburg, Oregon on May 24, 2011.

### SECTION 3 – PUBLIC INVOLVEMENT

The BLM solicited comments from affected tribal governments, adjacent landowners, affected State and local government agencies, and the general public on the Clever Beaver Density Management EA during a 30-day public comment period (April 20, 2010 – May 20, 2010). Comments were received as a result of the public comment period.

Upon reviewing the comments, the following topics warrant additional clarification specific to the Clever Beaver project: 1) Roads and Spurs, 2) Northern Spotted Owls, 3) Snags & Coarse Woody Debris, 4) Carbon Storage, 5) Marbled Murrelet, and 6) Survey & Manage.

1) Roads and Spurs

Comments were received that questioned: (a) the need for the amount of roads and spurs as proposed in the EA, (b) the amount of road construction in Riparian Reserves, and (c) which roads will be decommissioned and how will they be decommissioned.

(a) As stated in the *Updated Information* previously, there will be 5,305 feet of road construction and 20,195 feet of road renovation in Clever Beaver, which is 690 feet less construction and 8,688 feet less renovation than was proposed in the EA (pgs. 4, 8-9). Road construction and renovation is limited to those roads/spurs that are considered essential for safe use and environmentally responsible yarding operations. In addition, Road construction and renovation is a project cost that has the effect of reducing the stumpage value of a sale so they are included as part of the project design only where necessary.

(b) This decision is being issued under the 2008 ROD/RMP so the land-use allocations within Clever Beaver (i.e. LSMA, RMA, and TMA) are those under the 2008 ROD/RMP (q.v. pgs. 1-2; Table 1) and, therefore, does not include any Riparian Reserves, which was a land-use allocation under the 1995 ROD/RMP. As noted in Table 1, there will be 0.4 acres removed for the development of spur roads and Rights-of-Way within the RMA under the 2008 ROD/RMP.

Under the 1995 ROD/RMP there would have been no road construction within Riparian Reserves since this project would have been within the LSR which did not contain Riparian Reserves. For consistency, lands were reflected in only one land use allocation under the 1995 ROD/RMP according to the hierarchy of land use allocations (*Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl*, April 1994, pgs. 6-7). The Land Use Allocation Hierarchy is: (1) Congressionally Reserved Areas, (2) Late-Successional Reserves, (3) Adaptive Management Areas, (4) Managed Late-Successional Areas, (5) Administratively Withdrawn Areas, (6) Riparian Reserves, and (7) Matrix.

This hierarchy of land allocation ranked LSR above Riparian Reserves and as such LSRs do not contain Riparian Reserves.

- (c) Which roads and spurs will be decommissioned under this Decision and the method of that decommissioning is described above in *Table 2: Clever Beaver Roads & Spurs* (pg. 3). Based on 1995 ROD/RMP guidance (pg. 133), roads not needed for continued resource management will be left in an “erosion-resistant” condition to minimize drainage problems and sedimentation delivery to streams by using methods, such as blocking, ripping, seeding, mulching, fertilizing, and water-barring.

2) Northern Spotted Owls

Comments were received that the analysis of effects to northern spotted owls (based on known activity) is inaccurate because the responsiveness of spotted owls may be altered by the presence of barred owls.

The project area is located within the Tye Demography Study Area where surveys have been completed consistently and annually since the late 1980's. One of the goals of the study is to locate all spotted owls within the study area regardless of habitat quality. Annual surveys have been effective in identifying activity centers for both species within the project area; therefore, there is a low probability that an active spotted owl site has gone undetected.

3) Snags & Coarse Woody Debris

Comments were received that the BLM did not analyze: (a) the effects that thinning may have on future snag and coarse woody debris recruitment from the forest stands proposed for treatment or (b) if the amount of snags and coarse woody debris remaining following harvest would meet habitat needs.

- (a) The EA (pg. 15) described that the proposed action would capture most of the suppression mortality by harvesting. For example, it was predicted that in 20 years there would be 13,400 dead trees (i.e. snag and woody debris recruitment) in the absence of thinning treatments (EA, pg. 14) and 4,800 dead trees 20 years after thinning (EA, pg. 15). Thinning involves the tradeoff between maintaining or improving individual tree growth rates and reducing the accumulation of dead trees (such as snags and down wood) while promoting understory growth and a multi-layered stand structure (EA, pg. 15).
- (b) Thinning will temporarily decrease the amount of wood available to fall into the stream outside of the no-harvest buffers (EA, pgs. 34-35). This short-term decrease in wood availability will not impact fish habitat because streams in the project area already have a large volume of functional wood (EA, pgs. 34-35). Additionally, as stated in the EA (*Treatment Prescription: Snags & Coarse Woody Debris*, pgs. 5-6), snags greater than 10 inches dbh and all coarse woody debris and down logs would be retained to maintain existing habitat structure within the stand for wildlife. Additional coarse woody debris and snags is expected to be created incidentally through the harvest operations (e.g. damage leading to broken-out tops or individual tree mortality) or through weather damage (e.g. wind and snow break). It is also expected that the residual stands following harvest would continue to provide a pool of candidate trees for future snag and coarse woody debris recruitment.

4) Carbon Storage

Comments were received regarding the Carbon Storage analysis presented in the EA that questioned: (a) the cause and effect relationship between greenhouse gases and climate change, (b) if paper and pulp products are included in the calculation, and (c) if additional sources of fossil fuel consumption are included in the calculation (e.g. daily commutes to the project area by forest workers and application of fertilizer).

- (a) As cited in the EA (pg. 38), Forster, *et al.* 2007 (pgs. 129-234), reviewed scientific information on greenhouse gas emissions and climate change and concluded that human-caused increases in greenhouse gas emissions are extremely likely to have exerted a substantial warming effect on global climate. In addition, the EA further cites a U.S. Geological Survey memorandum (USDI USGS, 2008) to the U.S. Fish and Wildlife Service that summarized the latest science on greenhouse gas emissions and concluded that it is currently beyond the scope of existing science to identify a specific source of greenhouse gas emissions or sequestration and designate it as the cause of specific climate impacts at a specific location. Given this uncertainty, the analysis in the EA focused on calculating greenhouse gas emissions and carbon storage, in the context of carbon release and sequestration.
- (b) Paper and pulp products were considered in the calculations of wood products under “pulpwood” as described in the EA under *Appendix E: Carbon Storage/Release Analytical Methodology* (pgs. 64-65). The carbon pool of “Wood Products” represents the amount of carbon that will be converted from standing, live trees into either saw logs or pulpwood, collectively referred to as wood products in the EA.
- (c) Fossil fuel consumption of various harvest-related activities (i.e. timber falling, timber yarding, log hauling, and road construction and renovation) were included in the calculations to estimate carbon release under the proposed action (EA, pgs. 66-67). These estimates of carbon release from fossil fuels were calculated based on information available to the BLM such as the acreage of the area to be yarded (301 acres) and the projected volume of timber to sold and hauled (6,607,965 board feet). Information regarding the daily commute of forest workers as they implement the thinning activities associated with Clever Beaver is not available to the BLM (e.g. the number or type of vehicles commuting, the number of days commuting). Without this information, fuel consumption from commuting workers would be speculative and BLM is not required to speculate about future actions (BLM NEPA Handbook 6.8.3.4, pg. 58). Lastly, the Clever Beaver Density Management project did not include application of fertilizer and was not therefore ripe for analysis in the EA.

5) Marbled Murrelet

Comments were received that questioned the need for maintaining a higher basal area retention within the disruption buffer for marbled murrelets.

Habitat fragmentation and microclimate edge effects have the potential to decrease habitat availability, by reducing the abundance of potential murrelet nest sites in remaining stands of

suitable habitat for the marbled murrelet. Habitat fragmentation and increased edge effects have also been determined to increase avian predation risks to nesting murrelets. Therefore, in order to maintain microclimate conditions and avoid significant edge effects, a higher basal area (i.e 120 square feet) will be retained on portions of units that are either within 100 feet of late-successional habitat, where marbled murrelet surveys have not been conducted or the adjacent stand is known to be occupied by murrelets (EA, pg. 5).

6) Survey & Manage

Comments were received that Clever Beaver should be surveyed for Survey & Manage species such as the Oregon red tree vole.

As was discussed previously (pgs. 9-10), the Pechman Exemptions which exempt thinning projects in stands younger than 80 years old from the Survey & Manage standards and guidelines in the 2001 ROD are still in place following the District Court's December 17, 2009 ruling. 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 that meet the Pechman Exemptions. Clever Beaver is a project that entails no regeneration harvest and entails thinning only in stands 49-60 years old. Therefore, Clever Beaver meets exemption "a" of the Pechman Exemptions (October 11, 2006 Order) and surveys and/or mitigation are not required for species under the Survey & Manage standards and guidelines.

The remaining comments did not raise substantive issues that would influence my selection of the Proposed Action Alternative of the Clever Beaver Density Management EA, as updated above.

## **SECTION 4 – PROTEST PROCEDURES**

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 Subpart 5003 Administrative Remedies, protests of this decision may be filed with the authorized officer (Max Yager) within 15 days of the first publication date of the notice of decision notice/timber sale advertisement in *The News-Review*, Roseburg, Oregon on May 24, 2011.

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 Roseburg District office will be accepted. The protest must clearly and concisely state which portion or element of the decision is being protested and the reasons why the decision is believed to be in error.

43 CFR § 5003.3 subsection (c) states: "Protests received more than 15 days after the publication of the notice of decision or the notice of sale are not timely filed and shall not be considered." Upon timely filing of a protest, the authorized officer shall reconsider the project decision to be implemented in light of the statement of reasons for the protest and other pertinent information available to him. The authorized officer shall, at the conclusion of the review, serve the protest decision in writing to the protesting party(ies). Upon denial of a protest, the authorized officer may proceed with the implementation of the decision as permitted by regulations at 5003.3(f).

If no protest is received by the close of business (4:30 P.M.; Pacific Standard Time) within 15 days after first publication of the decision notice on May 24, 2011, this decision will become final. If a timely protest is received, the project decision will be reconsidered in light of the statement of reasons for the protest and other pertinent information available, and the Swiftwater Field Office will issue a protest decision.

For further information, contact Max Yager, Field Manager, Swiftwater Field Office, Roseburg District, Bureau of Land Management, 777 NW Garden Valley Blvd; Roseburg, OR. 97471, (541) 440-4930.



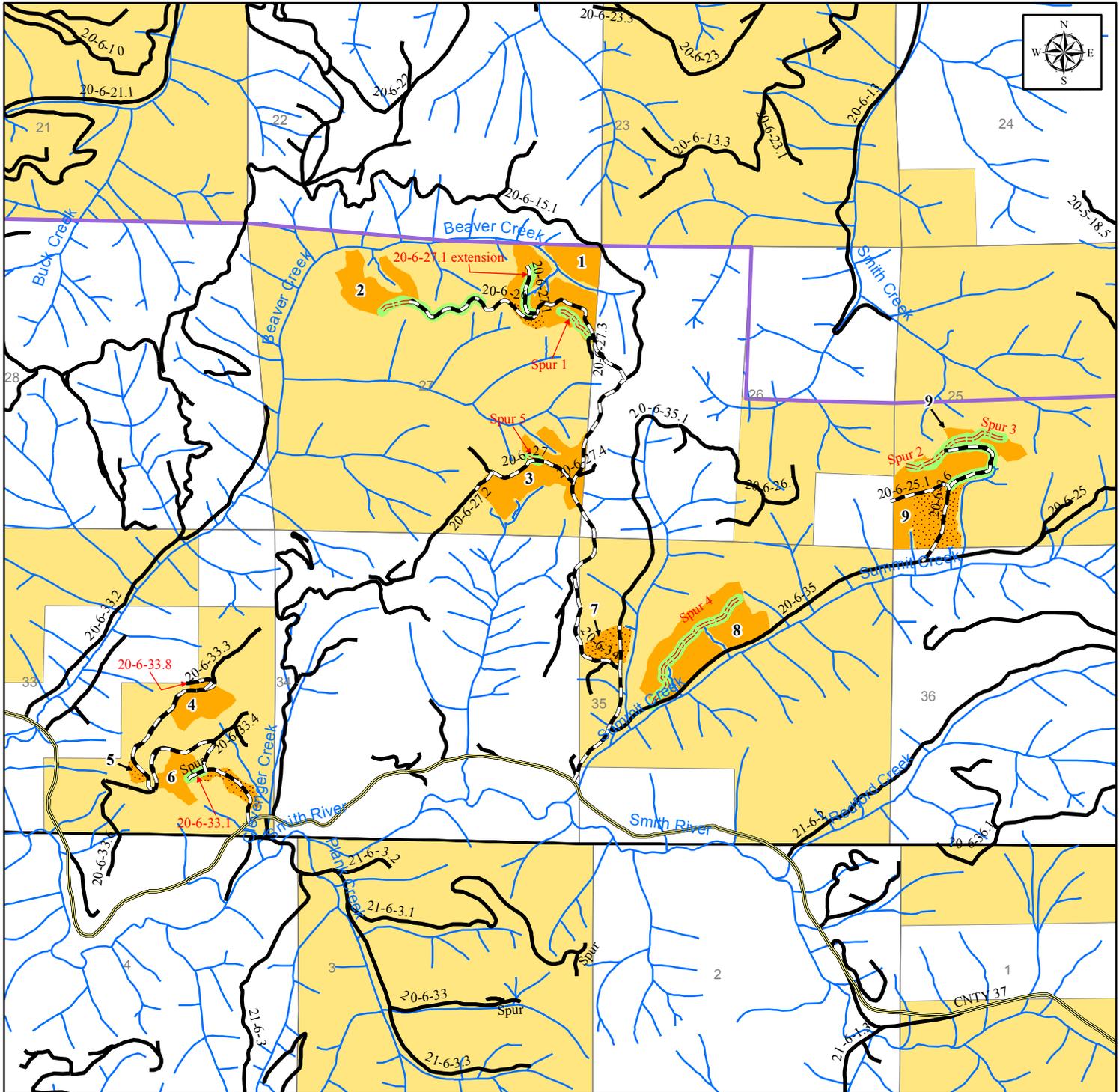
Max Yager, Field Manager  
Swiftwater Field Office

5-18-11

Date

# Figure 1. Clever Beaver Density Management

R6W



0 1,000 2,000 3,000 4,000 5,000 6,000 Feet

1 inch = 2,500 feet

1:30,000

## Legend

-  Harvest Unit: Cable Yarding
-  Harvest Unit: Ground-based Yarding
-  BLM Administered Land
-  Existing Road
-  Road Construction
-  Road Renovation
-  Road to be Sub-soiled
-  Stream

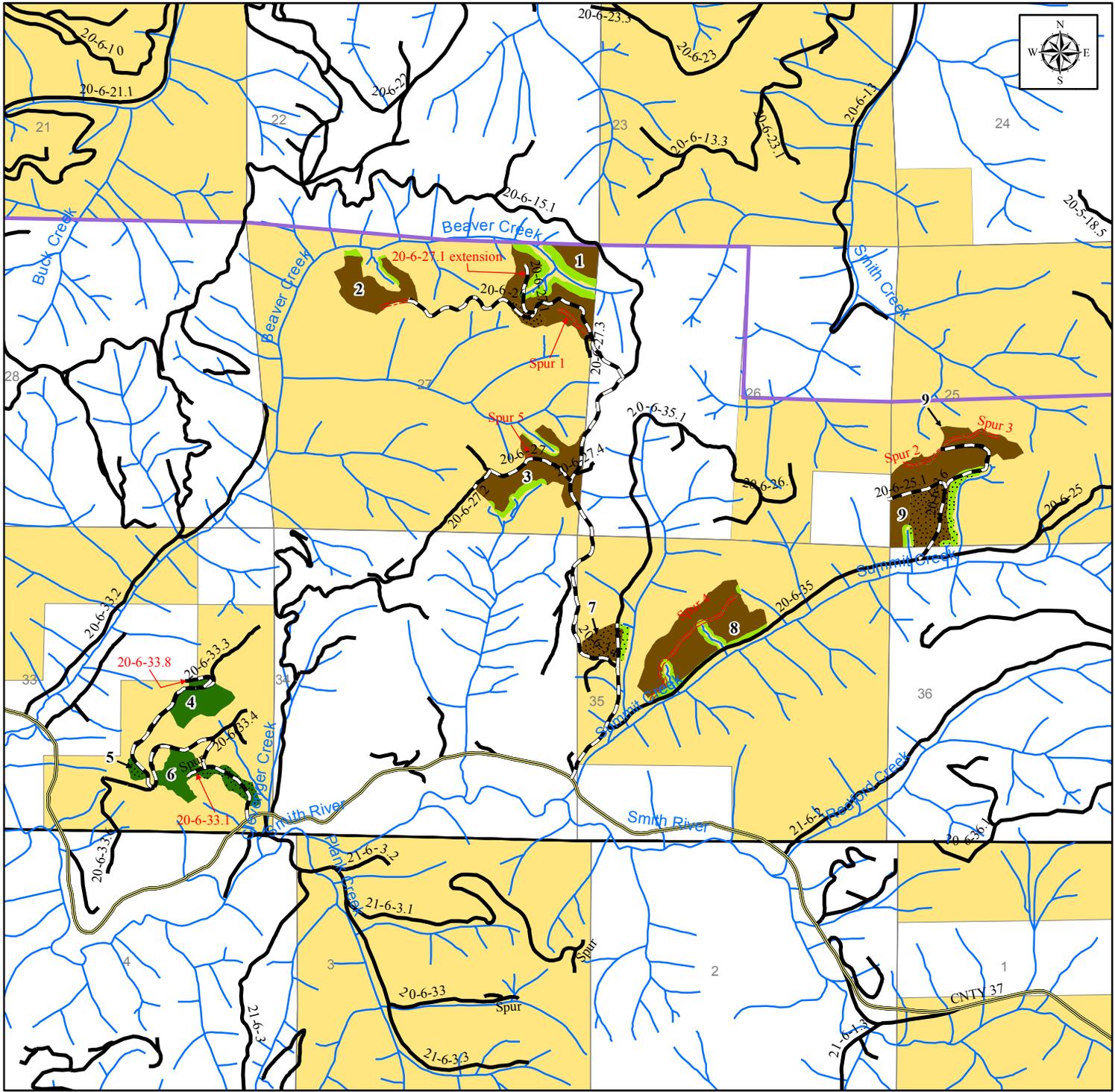


No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources and may be updated without notification.

Map Date: 05-18-2011 rlm

# Figure 2. Clever Beaver Density Management: Land Use Allocations within Harvest Units

R6W



0 1,000 2,000 3,000 4,000 5,000 6,000 Feet

1 inch = 2,500 feet

1:30,000

## Legend

- BLM Administered Land
- Late Successional Management Area
- Riparian Management Area
- Timber Management Area
- Existing Road
- Road Construction
- Road Renovation
- Stream
- Ground-based Yarding



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Map Date: 05-18-2011 rlm