

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

**Mud Slinger  
Commercial Thinning and Density Management  
Reoffer**

**Decision Document**

**SECTION 1 – THE DECISION**

**Background**

Mud Slinger Commercial Thinning and Density Management was analyzed in the Mud Den Commercial Thinning Environmental Analysis (NEPA#: DOI-BLM-OR-R040-2010-003-EA) that was released for public comment on June 8, 2010 and was updated in a Decision Document issued June 28, 2011. The timber sale notice and notice of decision was published on June 28, 2011. Mud Slinger Commercial Thinning and Density Management was offered for sale at auction on July 26, 2011 but received no bids from prospective buyers. The sale was not purchased during the 90 days it was available for sale following the auction.

**Decision**

It is my decision to reoffer the Mud Slinger Commercial Thinning and Density Management timber sale as described in the Mud Den Commercial Thinning and Density Management Decision document. The Project Design Features that will be implemented as part of Mud Slinger Commercial Thinning and Density Management Reoffer are described on pages 6-15 of the Mud Den Commercial Thinning EA. These project design features have been developed into contract stipulations and will be implemented as part of the timber sale contract. The timber sale has been reappraised since it was initially offered for sale to reflect current market conditions.

Mud Slinger Commercial Thinning and Density Management will occur on four units (approximately 127 acres) of second-growth forest approximately 34-54 years old located in the Upper Umpqua River, Deer Creek-South Umpqua River, and South Fork Coos River watersheds in Sections 31, 32, and 33 of T. 26 S., R. 7 W., Willamette Meridian. In addition, approximately 2 acres will be removed for the development of spur roads and rights-of-ways.

This project is within the Timber Management Area (TMA) and Late-Successional Management Area (LSMA) Land Use Allocations under the 2008 *Roseburg District Record of Decision and Resource Management Plan* (2008 ROD/RMP). Mud Slinger Commercial Thinning and Density Management will provide approximately 2.366 million board feet (2.366 MMBF) of timber available for auction.

**Updated Information**

There is no new information beyond that described in the original Decision document that would alter the conclusions of the analysis.

## 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.

## SECTION 2 – THE DECISION RATIONALE

The Project Design Features described in the Mud Den Commercial Thinning EA (pgs. 6-15) will minimize soil compaction, limit erosion, and protect slope stability, wildlife habitat, fish habitat, air and water quality, as well as other identified resource values. I have reviewed the resource information contained in the EA and the updated information presented in the original and this Decision document.

### Conformance

The Roseburg District initiated planning and design for this project to conform and be consistent with the Roseburg District's 1995 ROD/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 ROD/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 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 ROD/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. Mud Slinger Commercial Thinning and 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.

### Survey & Manage

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Sherman, et al.*, No. 08-1067-JCC (W.D. Wash.), granting Plaintiffs' motion for partial summary judgment and finding NEPA violations in the *Final Supplemental to the 2004 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (USDA and USDI, June 2007). In response, parties entered into settlement negotiations in April 2010, and the Court filed approval of the resulting Settlement Agreement on July 6, 2011. Projects that are within the range of the northern spotted owl are subject to the survey and management standards and guidelines in the 2001 ROD, as modified by the 2011 Settlement Agreement.

I have reviewed the NEPA document for the Mud Slinger Commercial Thinning and Density Management Project and have determined it is consistent with the Roseburg District Resource Management Plan/Forest Land and Resource Management Plan as amended by the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (2001 ROD), as modified by the 2011 Settlement Agreement.

The Mud Slinger Commercial Thinning and Density Management Project applies a 2006 Exemption from a stipulation entered by the court in litigation regarding Survey and Manage species and the 2004 Record of Decision related to Survey and Manage Mitigation Measure in *Northwest Ecosystem Alliance v. Rey*, No. 04-844-MJP (W.D. Wash., Oct. 10, 2006). Previously,

in 2006, the District Court (Judge Pechman) invalidated the agencies' 2004 RODs eliminating Survey and Manage due to NEPA violations. Following the District Court's 2006 ruling, parties to the litigation entered into a stipulation exempting certain categories of activities from the Survey and Manage standards and guidelines, including both pre-disturbance surveys and known site management. Also known as the Pechman Exemptions, the Court's Order from October 11, 2006 directs:

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

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

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

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

The Mud Slinger Commercial Thinning and Density Management Project meets Pechman Exemption A because it entails no regeneration harvest and entails thinning only in stands less than 80 years old. The stands to be harvested are 34-54 years old and were originally harvested between 1956 and 1976 (EA, p.18).

### **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 Mud Den Commercial Thinning EA, which included the Mud Slinger Commercial Thinning and Density Management project, during a 30-day public comment period (June 8, 2010 – July 8, 2010). Fifteen sets of comments were received as a result of the public comment period and were addressed by the BLM in the original Decision Record issued June 28, 2011.

## SECTION 4 – ADMINISTRATIVE REMEDIES

The Roseburg District published the original Mud Slinger Commercial Thinning and Density Management decision in a timber sale notice on June 28, 2011 in *The News-Review*, Roseburg, Oregon, followed by a 15-day protest period as required by 43 CFR § 5003.3. The Roseburg District did not receive any protests.

There have been no changes to the Mud Slinger Commercial Thinning and Density Management project being reoffered. As described on page one of this decision document, all Project Design Features which were incorporated into the contract stipulations for the original decision will remain in effect. The principle of administrative finality precludes protest of any issues on this Mud Slinger Commercial Thinning and Density Management Reoffer that could have been raised at the time of the original offering. Consequently, there is no new protest opportunity, and this decision is effective immediately.



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Max Yager  
Field Manager  
Swiftwater Field Office

FEB. 1<sup>st</sup>, 2012  
Date