

# State Trust Lands Habitat Conservation Plan – Fiscal Year 2013 Implementation Documentation

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Implementation of the Washington State Department of Natural Resources' (DNR) [State Trust Lands Habitat Conservation Plan \(HCP\)](#) often requires interpretation of its conservation strategies and how they may apply to an HCP-covered management activity. There are times when strict compliance may not result in the right outcomes or would conflict with other HCP objectives. There are also times when, unintentionally or inadvertently, an activity deviates from an HCP conservation strategy. Therefore, consultation may be needed to devise appropriate plans of action for complying with HCP objectives and conservation strategies, develop alternative plans of action to avoid conflict with HCP objectives, or rectify the unintended consequences of an activity.

The HCP documentation provided for fiscal year (FY) 2013 represents the cooperative problem-solving that is sometimes necessary in the course of HCP implementation. It includes the following:

- **Implementation consultations:** Agreements between DNR's Forest Resources Assistant Division Manager - HCP & Scientific Consultation Section, and regions or programs related to operational challenges where assistance and approval for a mitigation plan has been requested;
- **Joint concurrences:** Agreements between DNR and the Federal Services (United States Fish and Wildlife Service [USFWS] and NOAA Fisheries) related to strategy modifications and/or updates;
- **Non-compliances:** Non-approved deviations and/or violations of HCP conservation strategies and/or objectives; and
- **Other:** Informational documented issues/activities associated with HCP strategies, objectives or implementation.

The documents listed in the following table are for activities that have been approved. These documents are not meant as confirmation that an approved activity is moving forward or has taken place.

This information is linked directly to the *FY 2013 State Trust Lands HCP Annual Report* and is not intended to be a stand-alone document.

| DNR HCP Documentation for FY 2013 |               |              |                                 |  |   |
|-----------------------------------|---------------|--------------|---------------------------------|--|---|
| Region/division                   | Approval date | Type         | Associated project              | HCP strategy                                 | Activity summary  |
| Olympic                           | 7 /17/2012    | Consultation | F-1000 timber sale (TS)         | Northern spotted owl (NSO), Marbled murrelet | Removal of <0.05 acres of northern spotted owl (NSO) structural habitat and marbled murrelet reclassified habitat for road improvement to reduced risk of slope failure |
| Pacific Cascade                   | 8 /15/2012    | Consultation | Short Sorts TS                  | Marbled murrelet                             | Tailholds in suitable marbled murrelet habitat  |
| Pacific Cascade                   | 8 /22/2012    | Consultation | G-line road culvert replacement | Marbled murrelet                             | Project within 0.25 mile of an occupied marbled murrelet polygon; not harvest activity  |
| South Puget Sound                 | 9 /5 /2012    | Consultation | Diamond Butte Fire              | NSO  | Construction of 5.3 acre fire break including contingency line  |

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| Region/division                   | Approval date | Type           | Associated project                           | HCP strategy      | Activity summary  |
| Pacific Cascade                   | 9 /07/2013    | Consultation   | A non-DNR sale; right-of-way                 | NSO, multispecies | Construction of road in 0.06 acres of NSO dispersal habitat and on 0.01 acres if a talus field  |
| Pacific Cascade                   | 9 /14/2012    | Non-compliance | Replay TS; RMZ deviation                     | Riparian          | HCP deviation, harvest of 0.9 acres pf RMZ  |
| South Puget Sound                 | 9 /14/2012    | Non-compliance | Alder Ego TS; NSO deviation                  | NSO               | HCP deviation, harvest of 0.26 acres of movement habitat instead of planned 0.14 acres  |
| Olympic                           | 11/15/2012    | Concurrence    | Sieve Test (Westwood) TS                     | Marbled murrelet  | Harvest of 10 acres of marbled murrelet reclassified habitat  |
| Northwest                         | 11/28/2012    | Concurrence    | Stilly Headwaters VDT & VRH TS               | Multispecies      | Identification of low value caves and application of draft cave procedure   |
| Olympic                           | 11/15/2012    | Concurrence    | Dowan's Creek Road mitigation project        | Marbled murrelet  | Joint agreement with USFWS for the purchase of parcels as mitigation for reroute of a county road through occupied marbled murrelet habitat               |
| Pacific Cascade                   | 12/19/2012    | Consultation   | Violet TS; Half-Moon Mainline                | NSO               | Removal of 10 trees in low quality NSO habitat to allow for repair of a road  |
| Northwest                         | 1 /02/2013    | Consultation   | Nice Marmot TS                               | Marbled murrelet  | A large block of marbled murrelet habitat treated as Criteria 2 newly-identified habitat though it includes a small area of previously identified habitat |
| Southeast                         | 1 /04/2013    | Concurrence    | Klickitat Planning Unit                      | NSO               | Conversion of 50 acres of forest to farm land, the forest area includes 11 acres of suitable desired future condition (DFC) habitat                       |
| Pacific Cascade                   | 1 /07/2013    | Consultation   | Vogel Creek TS                               | NSO               | Removal of 1.2 acres of trees for road construction and removal of trees for cable yarding corridors, all in NSO dispersal habitat                        |
| South Puget Sound                 | 1 /07/2013    | Consultation   | Elbe Hills ORV campground                    | NSO               | Relocate an ORV campground in NSO movement habitat  |
| Northwest                         | 1 /08/2013    | Concurrence    | Clipper Ship TS                              | Multispecies      | Identification of medium value cave and application of draft cave procedure   |
| Southeast                         | 1 /23/2012    | Concurrence    | Table Mountain Salvage TS                    | NSO               | Post-fire salvage harvest in nesting roosting and foraging (NRF) area   |
| South Puget Sound                 | 1 /23/2013    | Consultation   | Nuthatch VRH TS                              | NSO               | Removal of 0.9 acres of trees in NSO movement habitat for road construction   |
| Forest Resources                  | 2 /11/2013    | Other          | Mazama pocket gopher comment letter to USFWS | n/a               | Comment letter to USFWS regarding Federal Register I.D. Vol. 77, No.238; proposed listing and critical habitat designations; mazama pocket gopher         |
| Northwest                         | 3 /28/2013    | Concurrence    | USFS request; Forest Service Road #26        | Marbled murrelet  | Harvest of 4 acres of suitable, surveyed, unoccupied marbled murrelet habitat for Forest Service road construction  |
| Pacific Cascade                   | 3 /28/2013    | Consultation   | Twin Bridges RMAP                            | Marbled murrelet  | Road maintenance and abandonment plan (RMAP) project in recommended MMMA area   |

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|-----------------------------------|---------------|--------------|---------------------------------------|------------------|---|
| Region/division                   | Approval date | Type         | Associated project                    | HCP strategy     | Activity summary  |
| South Puget Sound                 | 3 /28/2013    | Consultation | Nutty Buddy                           | NSO              | Removal of 0.7 acres of trees in NSO movement habitat for road construction   |
| Olympic                           | 5 /07/2013    | Concurrence  | North Texas BD TS                     | Marbled murrelet | Salvage in 4.6 acres of interim guidance memo marbled murrelet occupied site and 4.1 acres of buffer  |
| Northwest                         | 5 /09/2013    | Consultation | Crow's Nest TS                        | Marbled murrelet | Tailholds in marbled murrelet habitat   |
| Pacific Cascade                   | 5 /09/2013    | Consultation | E-7000 Rd abandonment                 | Marbled murrelet | RMAP project in recommended MMMA area   |
| South Puget Sound                 | 5 /31/2013    | Consultation | Round Top TS                          | NSO              | Removal of 1.7 acres of trees for road construction in next-best (non-habitat)  |
| Northwest                         | 4 /12/2013    | Consultation | Camp Road TS                          | NSO              | Harvest of 0.4 acres of trees in a strip ~30 feet by 372 feet between a road and a variable retention harvest unit  |
| Northwest                         | 7 /03/2012    | Consultation | Direct sale of firewood               | NSO              | Removal of windthrown trees in direct firewood sales in next-best (non-habitat) stands; including specific prescription measures for removal  |
| Northwest                         | 3 /12/2013    | Consultation | Natural Hat Trick TS                  | Marbled murrelet | Harvest of three platform trees for a landing and up to three trees for a right-of-way within a Criteria 1 habitat polygon  |
| Northwest                         | 4 /12/2013    | Consultation | Reiter Foothills Recreation Area      | NSO              | Harvest of 11 acres for Reiter Foothills Recreation Area parking lot. Project requires cutting a snag with a pileated woodpecker cavity. The leave tree component will not be implemented in harvest unit for the 11 acres that will make up the parking lot. |
| Northwest                         | 2 /06/2013    | Concurrence  | Stilly Headwaters VDT & VRH TS        | Multispecies     | Harvest of 0.4 to 0.5 acres of a cave buffer around medium and low value caves associated with a talus field < 1 acre in size   |
| Olympic                           | 6 /17/2013    | Other        | Dowan's Creek Road mitigation project | Marbled murrelet | Interagency Agreement 13-343 with Jefferson County; acquisition of parcels as mitigation for Dowan's Creek Road replacement   |

**June 19, 2012**

**TO:** Clay Sprague, HCP Implementation Manager

**THROUGH:** Drew Rosanbalm; State Lands Assistant Manager - Olympic Region

**FROM:** Scott Horton, Wildlife Biologist; Bill Wells, Coast District Manager – Olympic Region

**SUBJECT:** Removal of trees for road improvement within owl and murrelet habitat

Background: The area of interest is on the western Olympic Peninsula east of Forks, Clallam County, in Sections 14 and 15 T28N R13W (Figure 1). Improvements to logging roads for the proposed F-1000 timber sale require three limited areas in which trees must be cut within polygons variously designated as spotted owl structural or old forest habitat and marbled murrelet reclassified habitat (Figure 1). In recent years, side cast material has been removed from the outside shoulder of the F-1000 and F-11000 road systems. This was done to reduce the potential for slope failures due to perched side cast material that was becoming increasingly unstable. This maintenance activity has dramatically narrowed the drivable portion of the F-1100 and F-1000 road systems. In order to pass vehicles larger than pickup trucks, road widening needs to occur. This can be accomplished one of two ways: a rip rap key could be added to the outside of the road allowing for the road to extend out over the current hill slope. This method is the most expensive option and places additional long term risks for slope failures in the future. The second and preferred option is to move the current road centerline approximately 10' into the hillside. This will create a full bench road that has less potential for slope failures along the F-1100 and F-1000 road systems. DNR procedures that implement the HCP currently preclude timber harvest in all those habitat types. While few of these trees are merchantable, all will be removed as part of the more extensive right-of-way harvesting that is part of the timber sale proposal.

On-site observations: I visited the sites on June 11, 2012 to observe stand characteristics relative to features of owl and murrelet habitat and to conduct a detailed examination of the habitat areas proposed for clearing. Areas 1 and 2 are both owl and murrelet habitat (see Figure 1) and consist of a narrow strip of the native stands above the original cut-bank which has re-grown since the road was constructed approximately 55 years ago. Rather than attempt to determine the precise boundaries of the mapped habitat polygons, I used the outer edge of native forest soil above the re-vegetated cut-banks to estimate the outer edge of habitat. Figures 2 – 6 illustrate these areas. In total, the area proposed for clearing in these portions of the right-of-way is approximately 2,000 ft<sup>2</sup> or less than 0.05 acre. The largest tree among those proposed for clearing is approximately 16" dbh. No trees proposed for clearing contain platform structures that are associated with murrelet habitat.

Area 3 is spotted owl structural habitat only. The area to be cleared within habitat is less than 0.1 acres and contains only 4 larger trees to be cut (Figures 7 and 8). All these trees are simple-structured western hemlock, approximately 18-20" dbh that originated after the '21-blow windstorm and thus are approximately 90 years old. Some of this area was cleared earlier as part of the Lower Mill Thinning (completed 2001) as illustrated in Figure 7.

I conclude the proposed clearing constitutes an insignificant impact on habitat acreage and function and will not preclude further options for these habitat areas to contribute to HCP conservation strategies in the OESF.

Proposal: Permit this clearing in marbled murrelet and spotted owl habitat as consistent with HCP commitments.

If you concur that this proposal is consistent with HCP Conservation Strategies and other Department Procedures and that DNR may proceed, please sign below.

Clay Sprague  
Clay Sprague, HCP Implementation Manager

7/17/12  
Date



Figure 2. View of Area 1 (see Figure 1) showing the flagged and painted right-of-way boundary trees above the area proposed for clearing. The largest tree proposed for removal in Areas 1 and 2 is to the left of the forester, it is a 16" dbh western hemlock. Note the road cut is immediately downhill.



Figure 3. View of Area 1 looking 180° from the view in Figure 2 (the same large boundary tree is in the foreground in both figures). Note the road cut is immediately downhill.



Figure 4. View of Area 2 (see Figure 1) showing the flagged and painted right-of-way boundary trees above the area proposed for clearing. Note the road cut is immediately downhill.



Figure 5. View of Area 2 looking 90° to the right from the view in Figure 4 (the same larger boundary tree is in the foreground in both figures). Note my vehicle parked in the road immediately downhill.



Figure 6. View of Area 2 looking 180° from the view in Figure 4, including the same larger boundary tree which is in the foreground in all three figures. Note there is very little area below the right-of-way tags and the road-cut immediately downhill.



Figure 7. View of Area 3 from the edge of the road-cut looking into the stand of owl habitat beyond the trees bearing right-of-way tags. The stump just to the right of the left-most right-of-way tag was a guyline anchor for the small tower used in the Lower Mill thinning (completed 2001). The other stumps were from trees cleared for the guyline. Four larger trees are proposed to be cut in this right-of-way, the largest of which (approximately 20" dbh) is wrapped with pink ribbon in the right foreground.



Figure 8. Another view of Area 3 showing all four of the larger trees proposed to be cut in this right-of-way.



August 2, 2012

**TO:** Clay Sprague, HCP and Scientific Consultation Section Manager

**THROUGH:** Mary McDonald, State Lands Assistant Region Manager, Pacific Cascade Region

**FROM:** Noelle Nordstrom, Pacific Cascade Region Biologist

**RE:** **Habitat Protection and Tailhold Strategy for Marbled Murrelet Habitat Adjacent to the Short Sorts Timber Sale**

This memo pertains to the Short Sorts timber sale, which is a two-unit proposal in the Black Hills District of Pacific Cascade Region. This timber sale is also within the South Puget HCP Planning Unit; therefore a marbled murrelet habitat assessment in and adjacent to the proposed harvest areas was completed during the sale planning process, in order to comply with the Marbled Murrelet concurrence letter dated July, 2009. Both units are located in sections 26, 35 and 36 of Township 18 North, Range 03 West. (Please see attached map.)

Unit 1 does not have potential marbled murrelet habitat inside or within 300 feet of its boundaries. There are 20 scattered platform trees to the north of Unit 1, but they are not situated in a way that creates a 5 acre polygon of trees less than 300 feet apart. The assessment did identify two areas of suitable marbled murrelet habitat directly adjacent to Short Sorts Unit 2. In response, the sale boundaries were adjusted to accommodate a 165-foot buffer that was applied around the habitat per the concurrence letter.

In order to complete the harvest of Unit 2, it is necessary to locate tailholds within the suitable habitat and/or its buffer. Tailholds are a viable option in this situation if the survivability of the tailhold trees and the integrity of large limbs in the canopy are priority. Tailhold trees will not include trees with platform limbs, and will be carefully chosen to avoid damage to limbs of adjacent trees. In addition, straps will be used to avoid notching trunks of tailhold trees. All tailholds will be approved by the contract administrator, in consultation with a region biologist if needed. All guylines will be located outside of the habitat. No trees will be felled within the habitat or buffer.

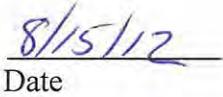
Timing restrictions will apply to this sale. Unit 1 is not directly adjacent to potential habitat but is within 0.25 mile of the newly identified habitat. Therefore a daily peak activity timing restriction will be observed if Unit 1 is harvested during the critical nesting season (April 1 through August 31). During these months, timber harvest, road work, and other noise-generated activities shall not occur 1 hour before official sunrise to 2 hours after, and 1 hour before to 1 hour after official sunset.

The contract for Short Sorts timber sale will require all harvesting activities within Unit 2 to be completed by March 31<sup>st</sup>, 2013. Therefore Unit 2 shall be harvested outside of the critical nesting

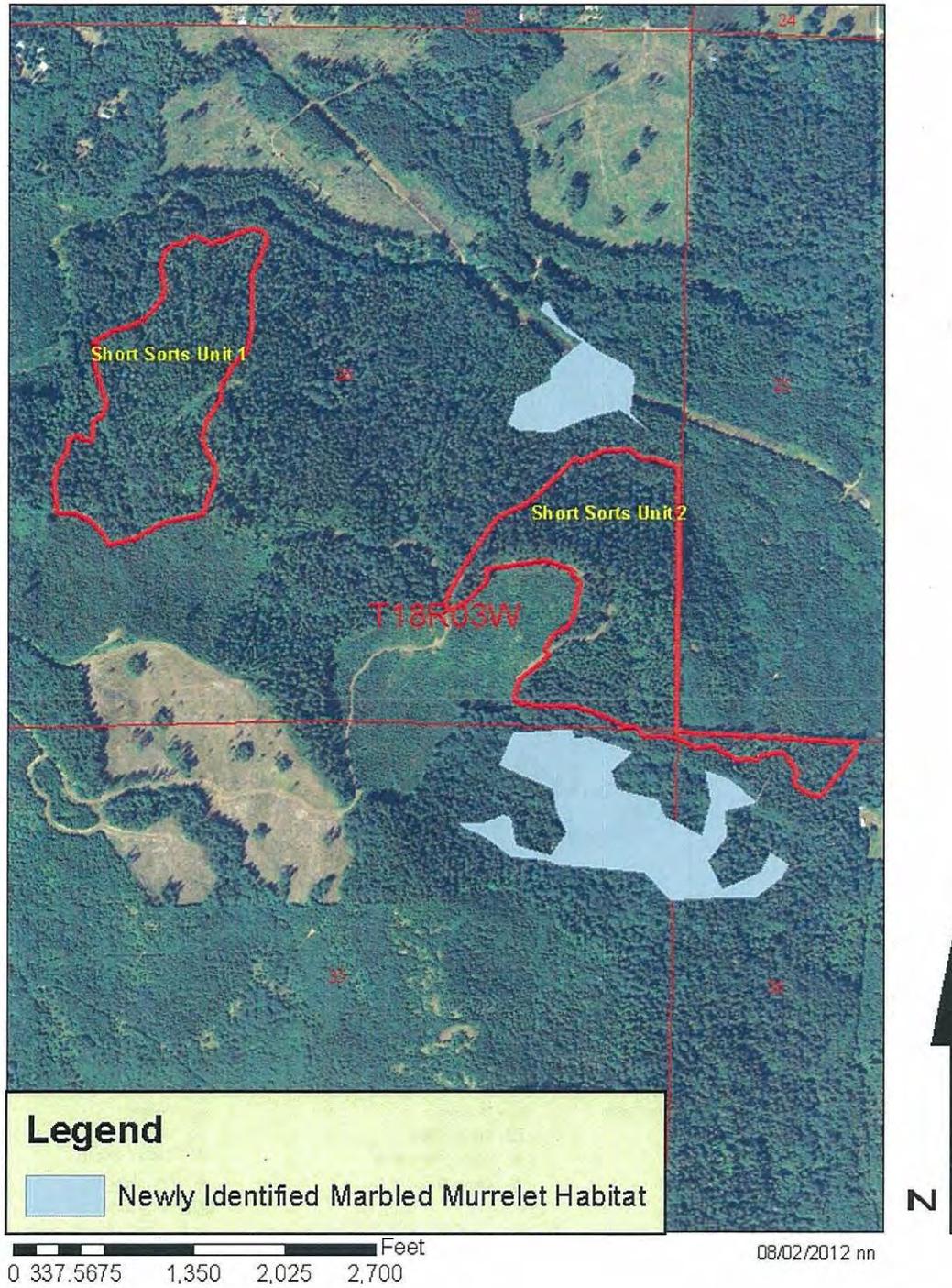
season. Daily peak activity timing restrictions are not needed for harvesting activities, but will be enforced for road work and unit clean-up for Unit 2.

If you concur that this proposal is consistent with the HCP Interim Marbled Murrelet Conservation Strategy and may proceed, please sign below.

  
Clay Sprague, HCP Implementation Manager

  
Date

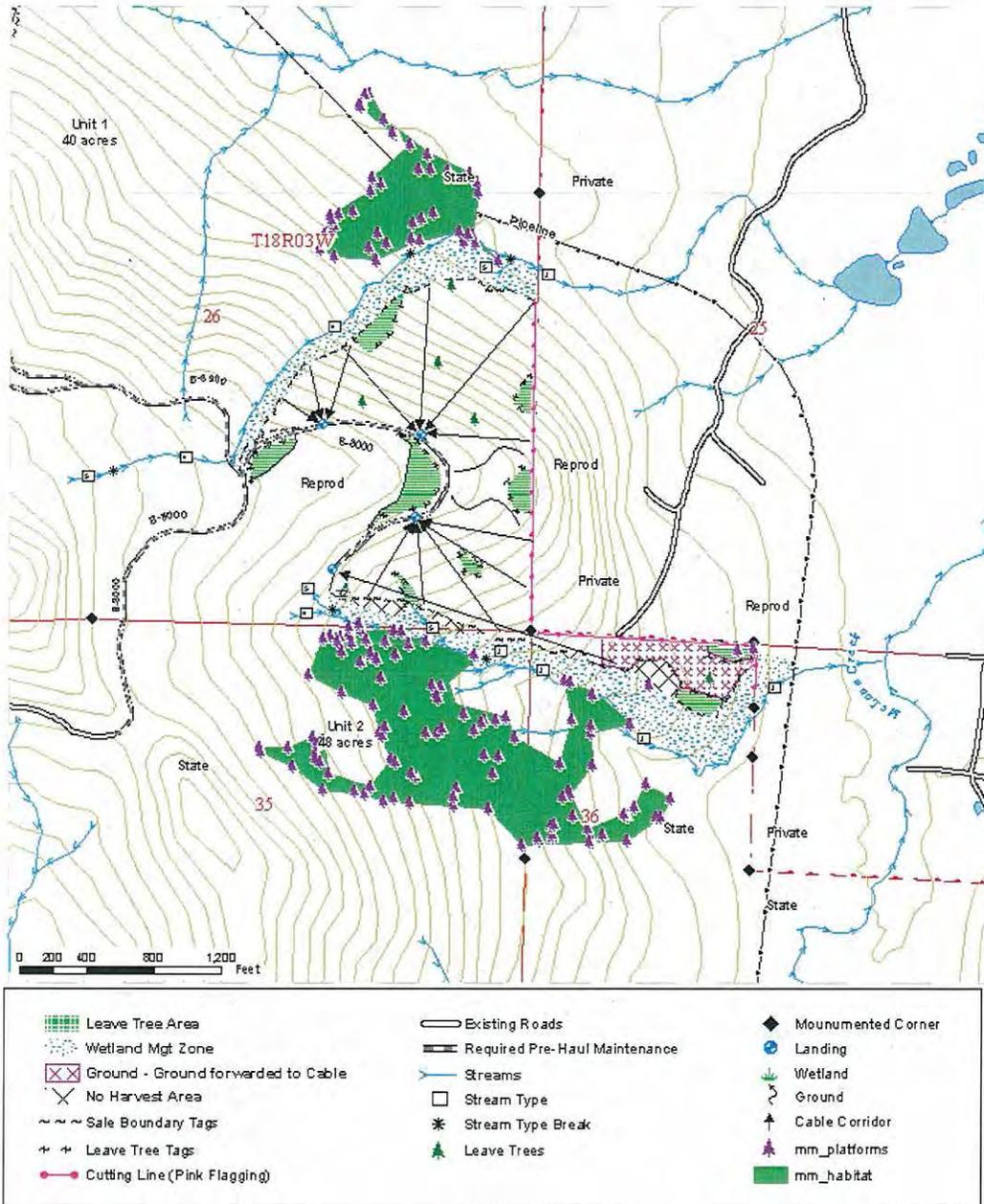
# Short Sorts Timbersale and Newly Identified Marbled Murrelet Habitat



Below is the logging plan map for Unit 2 showing landing location and yarding corridors.

# LOGGING PLAN MAP

SALE NAME: SHORT SORTS  
 AGREEMENT #: 30-088567



Prepared By: ddun490

Creation Date: 2/8/2012

Modification Date: 07/26/2012

August 2, 2012

**TO:** Clay Sprague, HCP and Scientific Consultation Section Manager

**THROUGH:** Mary McDonald, State Lands Assistant Region Manager, Pacific Cascade Region

**FROM:** Noelle Nordstrom, Pacific Cascade Region Biologist

**RE:** Culvert Upgrade in the Vicinity of Marbled Murrelet Habitat; G-Line Road, Pacific County, Southwest Washington.

This memo pertains to a necessary culvert replacement for road maintenance on the G-Line road, located in the Lewis District of Pacific Cascade Region. The project site is located in the Southeast quarter of Section 06, Township 13 North, Range 08 West. (Please see attached map.)

This project is within 0.25 mile of an occupied marbled murrelet polygon, and so requires a consultation with a region biologist before work can begin. The project area is within Southwest Washington, but outside of a proposed "Marbled Murrelet Management Area" boundary, and outside of all occupied and reclassified habitat polygons and their associated buffers. The project, at its closest is approximately 360' from the designated occupied site.

The project is within an area of young plantation forest (origin date 1996) and no merchantable or non-merchantable trees will need to be removed to complete the work.

It is also important to note that the occupied and reclassified marbled murrelet habitat in the vicinity experienced significant wind damage (blowdown) in 2007, particularly on the edge closest to the culvert project and was salvaged in 2008 per the concurrence letter dated May, 2008 with the Services. This blowdown affected most of the site and severely impacted the quality of the stand severely reducing or eliminating canopy closure and stand structure.

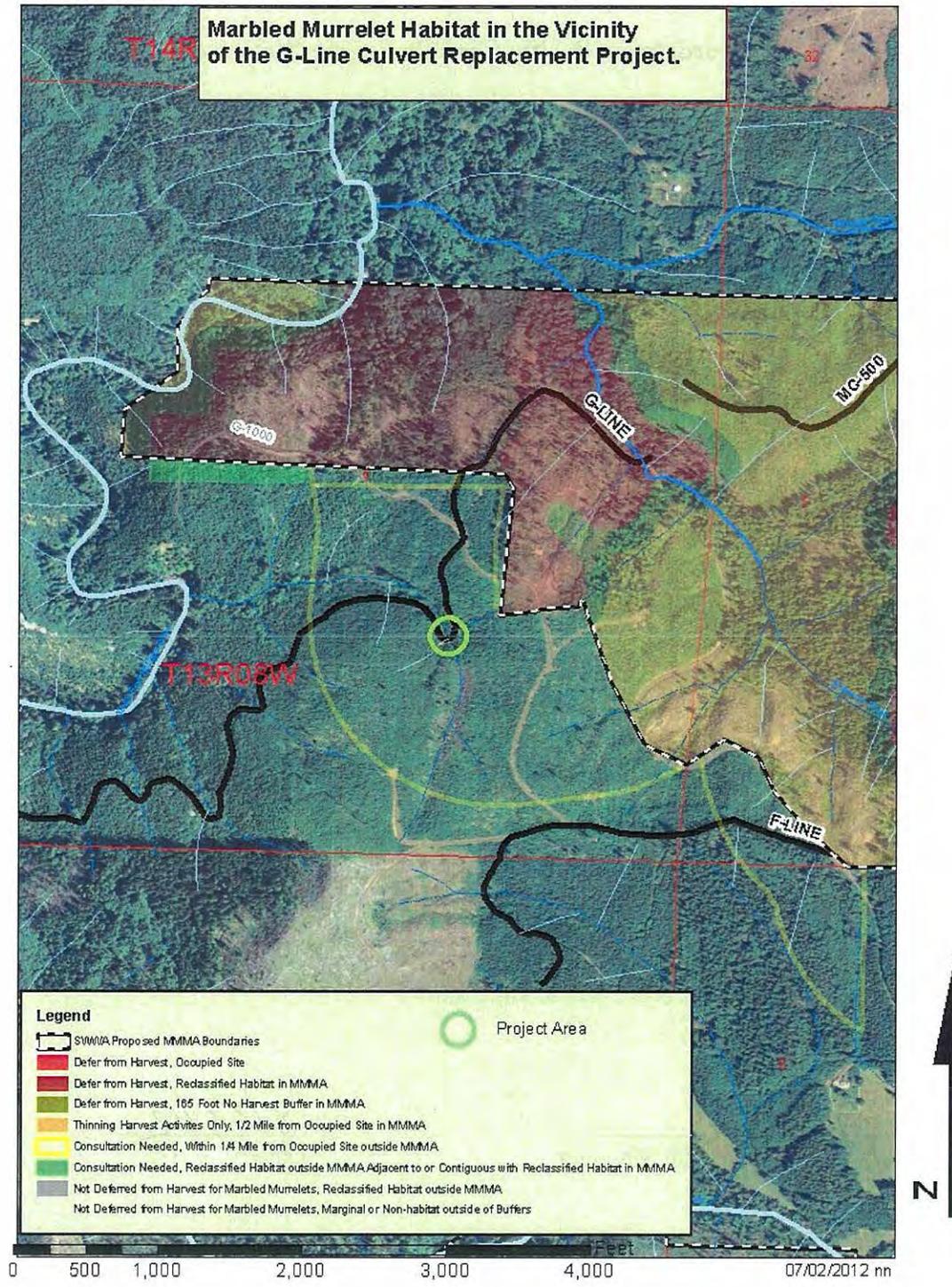
Because the marbled murrelet site is so heavily wind damaged, and because the project does not involve any tree cutting, I recommend that this project proceed without the need for seasonal timing restrictions or other constraints.

If you concur that this proposal is consistent with the HCP Interim Marbled Murrelet Conservation Strategy and may precede, please sign below.

  
Clay Sprague, HCP Implementation Manager

8/22/12  
Date

Below is a map showing the project location in relation to the marbled murrelet occupied site in the vicinity.



# Memo

**Date:** September 5, 2012

**To:** Clay Sprague

**From:** Ken McNamee

**CC:** Randy Niessner, Brian Mize

**Re:** Contingency Line for the Diamond Butte Fire

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On August 26, 2012, a lightning event occurred along the east slopes of the Cascades in the Klickitat Meadows area on the west end of the Ahtanum State Forest (ASF). This resulted in several fires in the area. The largest was the Diamond Butte on the north end of the Yakama Indian Reservation adjacent to State Trust Lands and private timberland.

The fire started from a lightning strike on top of Diamond Butte in Section 13, Township 11 North, Range 12 East, WM. The fire moved in an easterly direction and burning in an overstock mix stand of high elevation confers (lodgepole pine, subalpine fir, spruce, mountain hemlock, white bark pine, and western larch) with a high concentration of dead trees. The majority of the lodgepole had died from old age and mountain pine beetle. The subalpine fir and spruce suffered from several years of spruce bud worm and balsam woolly adelgid damage.

The observed fire behavior during initial attack was areas of short running crown fires with group touching of trees, winds were out of the south/southwest 5 to 7 mph with long range spotting occurring ½ mile away. There was no measure precipitation within the last month or so.

The initial attack forces took a very aggressive stands with the goal to hold the fire on the YN reservation side of the boundary line. The goal was to try to prevent an event from occurring similar to the Discovery Fire in 2009.

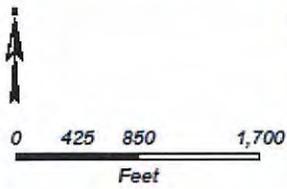
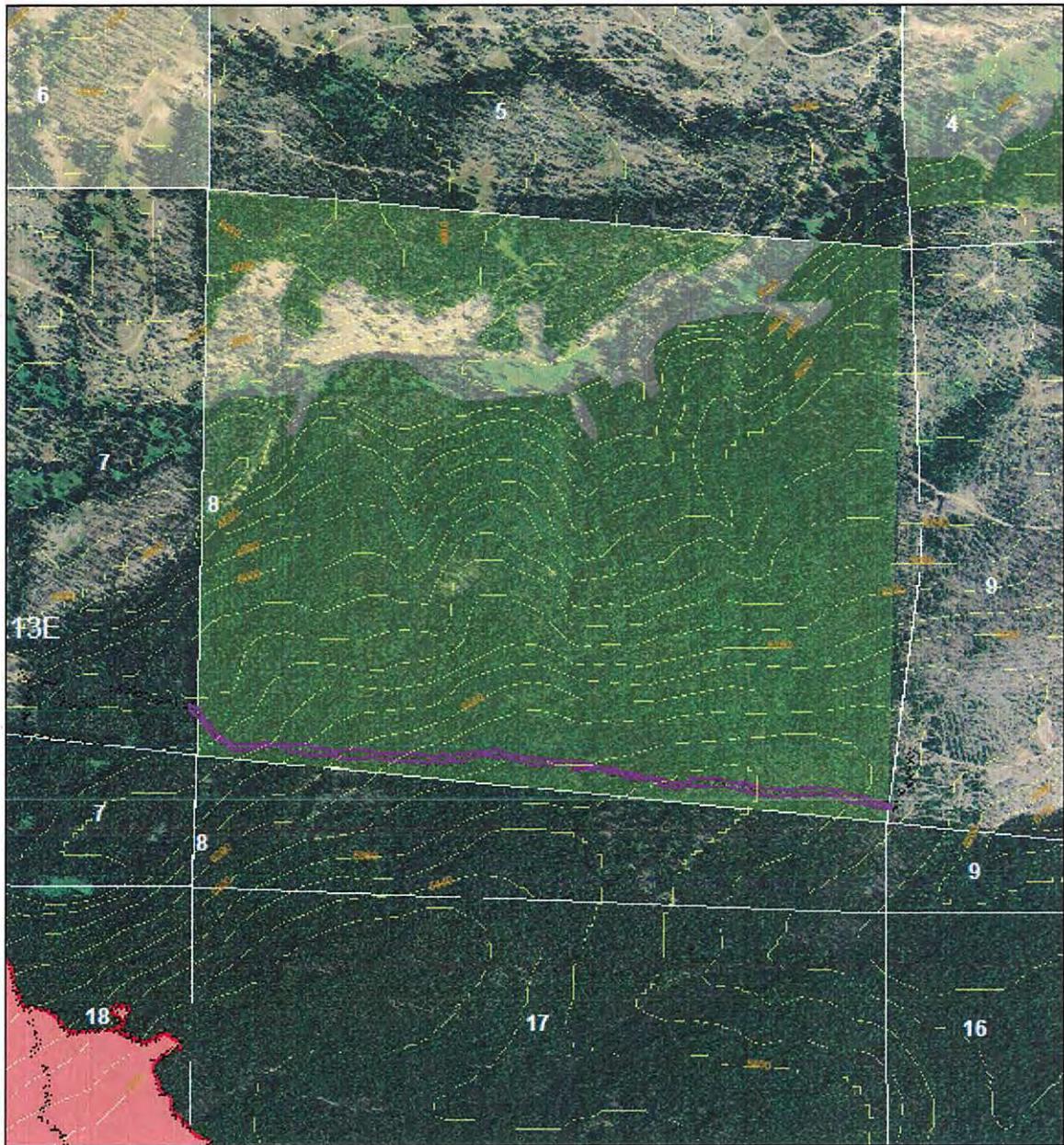
With the current and predicted fire behavior, I made the decision, in consultation with the IA command staff, to construct a contingency line along the southern boundary of Section 8 (un-harvested dispersal habitat on State Trust Land) and tie the line into

the current road systems in Section 7 and 9 (which had been harvested by the private landowner a few years ago). I also consulted with Clay Sprague, DNR's HCP Implementation manager and got his concurrence. I took advantage of the contractor that was working on the Diamond/Chuckle Sort Sale in Section 10 and hired them to construct the contingency line. The goal was to build a fuel break 2 to 3 dozer blades wide and to construct a shaded fuel break 20 to 30 feet wide, which entailed removing the dead & dying trees along with understory on the south side of the fuel break. We developed a three phase plan for the contingency line:

1. Allow the fire to back down to the contingency line;
2. Burnout from the contingency line to strengthen the line; and if need be
3. Support the line with retardant.

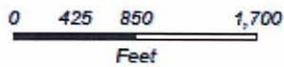
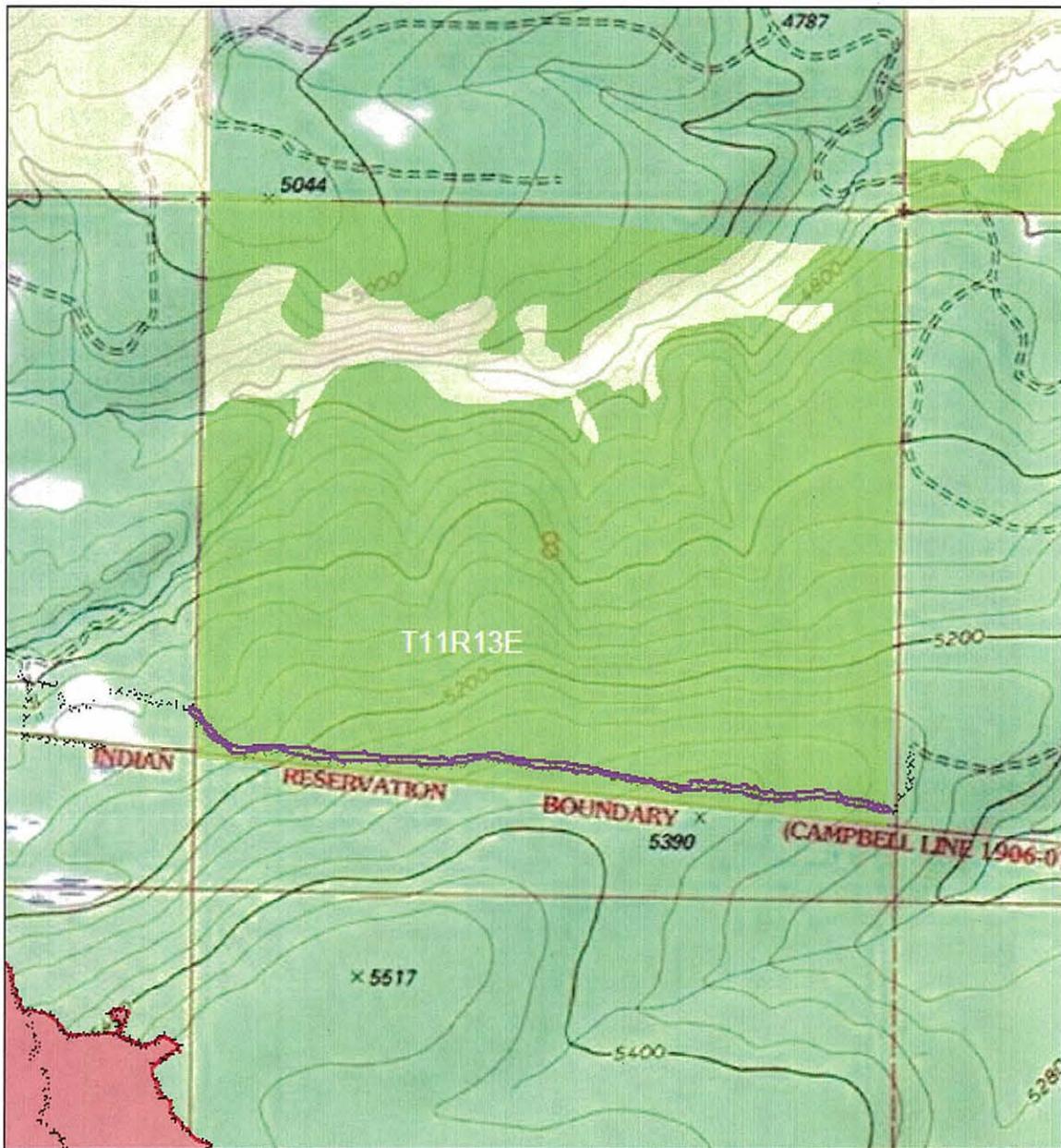
The total acreage of the contingency line ended up to be 5.3 acres.

# Diamond Butte Fire - August 27 2012



- Dispersal Habitat on Dispersal Designated Land
- Non-Habitat on Dispersal Designated Land
- GPS Track
- Completed Dozer Line
- Completed Line
- FirePolygon

# Diamond Butte Fire - August 27 2012



- Dispersal Habitat on Dispersal Designated Land
- Non-Habitat on Dispersal Designated Land
- GPS Track
- Completed Dozer Line
- Completed Line
- Fire Polygon

August 28, 2012

TO: Clay Sprague, HCP and Scientific Consultation Section Manager

THROUGH: Mary McDonald, State Lands Assistant Region Manager, Pacific Cascade Region

FROM: Danielle Munzing, Pacific Cascade Region Biologist

RE: Longview Timber Harvest of Right of Way Trees Within Dispersal Habitat

Longview Timber has a timber harvest planned on their lands adjacent to DNR's spotted owl Dispersal Management Area in the Hamilton Creek SOMU, which is currently at 47% habitat threshold. In order to harvest their timber, Longview proposes to construct a road that crosses a small portion of state land (see attached map) that will harvest some trees within Dispersal Habitat in the Hamilton Creek portion of the Future Habitat Area. The road will also enter the edge of a four acre talus (partially forested) field. Our current procedures allow for road building through habitat below threshold; however DNR is to avoid building road through talus. The proposal will impact state land, but the road layout has been designed to minimize impacts to DNR trust lands and conservation objectives. We are requesting your review and concurrence of this activity.

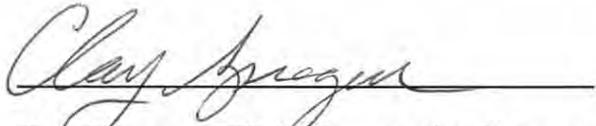
The preferred road location and right-of-way will cross a piece of state land for approximately 50 feet in length and 70 feet in width (35 feet from the center line on either side). The Right of Way (ROW) will remove 13 trees (10-12 inches dbh) on approximately 0.06 acres of Dispersal habitat. This piece of dispersal habitat was in my assessment unsuitable, not only were the trees small in dbh, but also in height (less than 60 feet). No snags will be removed and there was no significant large woody debris in the ROW. The right of way area is small and the amount of dispersal habitat in this SOMU will not be reduced. The ROW will disturb 0.01 acres of the edge of the talus field; however, no timber will be removed from this area.

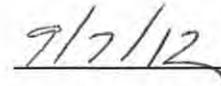
The road was designed by Longview Timber to minimize impacts to state land. If the road placement occurred uphill it would remove a more significant portion of the talus including trees from the forested portions. If the road is moved downhill of the preferred option it will impact a larger area of Dispersal habitat. Due to the sharp terrain of the area, any other road location would require very steep grades and more road construction which could have a much larger environmental impact to the talus and surrounding landscape. This area has scattered ownership boundaries in which adjacent landowners utilize other landowners' road networks as an effective strategy to reduce the overall road network in the landscape and associated environmental and economic impacts. Providing this access accomplishes this objective.

Because the area of talus that will be impacted is very small and the trees that will be removed from Dispersal are not significantly contributing to canopy closure; and because providing this

access minimizes the overall road network in this landscape and is less environmental impactful than the alternative; I recommend that this project proceed.

If you concur, please sign below.

  
Clay Sprague, HCP Implementation Manager

  
Date

Map showing proposed Longview Timber road location in relation to state lands and the potential impacts to wildlife habitat.

### Longview Timber Road on State Land T02N R06E S4&9







September 14, 2012

**To:** Mark Ostwald, United States Fish and Wildlife Service

Matt Longenbaugh, NOAA Fisheries

**From:** Clay Sprague, DNR HCP Implementation Manager

A handwritten signature in blue ink that reads "Clay".

**Subject:** Replay Timber Sale

Please find attached the final report for the Replay timber sale and HCP deviation that occurred. The report contains the background, summarizes the presales processes, deviations from HCP Riparian conservation strategy, reasons for those deviations, and mitigation and corrective actions the department has taken and will take as a result.



## **Replay VRH Timber Sale RMZ Tree Removal Investigation Report**

### **I. Background**

Replay Variable Retention Harvest (VRH) is a four Unit sale located in Section 32 & 33, Township 7 North, Range 5 East, W.M in Pacific Cascade Region- Siouxon block. The sale was designed in 2009, sold in December 2010 and completed in November 2011. Contract administration was conducted by a Yacolt District Natural Resource Specialist 1 who had also been the lead Forester responsible for the sale layout. The sale has been closed out and is awaiting reforestation.

In the course of a post harvest unit evaluation, a RMZ deviation was discovered near Unit #1 within the upper end of a Type 4 buffer and near the Type4/Type 5 stream type break. This stream buffer segment is near the upper end of the drainage at the perennial initiation point (PIP) and within approximately 300 feet of the ridgeline located near the S-1010 road (See Timber Sale Map attached).

The 2010 Replay VRH sale area was the location of an earlier harvest –Replay Thinning, a variable density thinning (VDT) in 2002. Due to differences in water type rules between 2002 and 2009, segments of the affected stream were typed differently. The Type 4/5 break moved upstream into Unit #1. This entire affected stream segment was typed as a Type 5 in 2002 and a Type 4 on most of the stream segment in 2009.

Timber Sale tagging from the 2002 variable density thinning project was still intact in the vicinity when the 2009 sale design commenced. It appears that these tags were not completely removed during the 2009 presales process, which is a part of the process when marking a sale in a location of previous timber sale activity.

Based on 2009 field work, most of the stream segment in question was determined to be Type 4 water and a 100' minimum buffer was prescribed for both sides of the stream per the HCP procedure. This stream also had a Type 5 stream segment that had a leave tree clump placed on either side of the stream to the S-1010 road. The 2009 sale maps indicate the appropriate Type 4 stream buffer was applied to both sides of the stream. A portion of the buffer on this Type 4 stream segment does not match this prescription and a strip, approximately 75' wide by 500' long, was harvested within the Type 4 buffer width. This harvested area was GPS measured to be 0.9 acre. The total RMZ buffer and leave tree clump acres applied near streams for this sale over all four Units is 78 acres. This means about 1% of the planned RMZ buffer area was harvested. In addition, there are some stream segment buffers where more than the minimum RMZ width was retained-see attached map and information below. This includes the Type 5 designated portion of the stream in question, and other Type 5 stream segments that received leave tree clumps.

**II. Compliance**

The entire Type 4 stream segment should have had a 100’ buffer on both sides in order to be in compliance with HCP Procedure 14-004-150. The harvested Type 4 RMZ area follows posted tags on the ground, but they appear to be from the 2002 Replay Thinning tagging.

There are two possible explanations for the discrepancy:

- Previous timber sale tags (2002) were not removed prior to harvest, no new tags were placed at the 100’ distance and the operator followed the old tags for a cutting line on the northeast side of the stream.
- There was a double tag line on the northeast side of the Type 4/Type 5 stream segment to the S-1010 road and the harvester used the previous 2002 tag line for the stream buffer in error. This was not found during the compliance process of the 2011 timber sale operations nor reported by the purchaser/operator.

**Stream RMZ buffers and leave tree clumps near streams applied for Replay VRH are as follows:**

| <u>Stream Type</u> | <u>HCP required (acres)</u> | <u>Additional retained (acres)</u> | <u>Total (acres)</u> |
|--------------------|-----------------------------|------------------------------------|----------------------|
| 3                  | 5                           | 4                                  | 9                    |
| 4                  | 35                          | 21                                 | 56                   |
| 5                  | 0                           | 13                                 | 13                   |
| <b>Total</b>       | 40                          | 38                                 | 78                   |

**III. Mitigation**

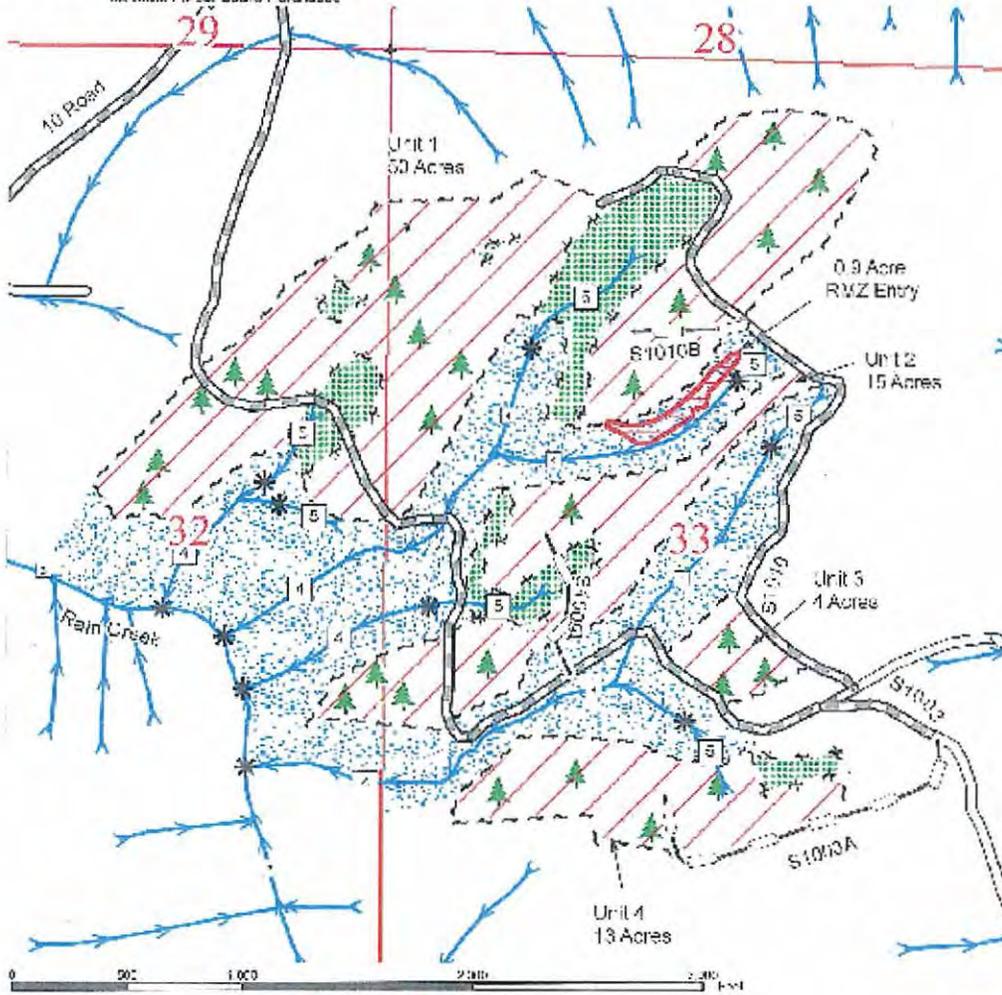
- Reforestation will occur with a scheduled ground application site preparation in conjunction with the adjacent Unit #1 in August 2012;
- Planting prescription of 350 trees per acre of Douglas fir, western red cedar, and western hemlock in conjunction with the scheduled adjacent Unit #1 will occur in spring 2013 to mitigate the harvested RMZ buffer. The seedlings will be planted in protected micro sites where available and western red cedar will have vexar tubing to reduce animal browse while providing maximum tree growth for this site.
- The stream and adjacent area has downed wood material and slash that will assist with natural erosion control.
- Intact 100’ RMZ buffer along the south side of the Type 4 stream will provide shading throughout the day to address water temperature concerns. This RMZ buffer will also reduce sedimentation potential through canopy interception and natural filtering of hydraulic functions near the stream.

- Documentation of this incident will be forwarded under the HCP procedure and the information shared within the Agency to reiterate the importance of removal of old tags in the vicinity of new harvest boundaries.
- On-site pre-work conferences with purchaser/operators are required when working near RMZ's or when applying the HCP riparian forest restoration strategy and will continue to be emphasized with Contract Administrators. Contract clause G-116 Sustainable Forestry Initiative (SFI) requires a purchaser have a representative on-site during active operations that has completed training according to requirements outlined within the SFI program standard. This will be reiterated during sale pre-works to include review of riparian management zones and the timber sale design.
- Individuals associated with this incident have been debriefed, and were made aware of the need for a complete understanding of the importance of sale design- especially when working in the vicinity of a previously tagged sale or near other sales sharing a road system. Compliance monitoring for accurate adherence to marked boundaries was also discussed. The incident was presented to the District personnel and will be shared within the Region staff.
- A meeting with DNR Forest Practices will occur to review the Forest Practice deviation and discuss the mitigation plan.
- DNR Forest Resources and Conservation Division and all DNR Regions will meet and review the presales process to strengthen prevention of HCP and Forest Practice deviations (completed July 24, 2012)

**TIMBER SALE MAP**

SALE NAME: Replay VNH  
 AGREEMENT #: 20-085644  
 TOWNSHIP(S): 7N R5E  
 TRUST(S): 01 State Forest Board Transfer  
 02 State Forest Board Purchase

REGION: Pacific Coast  
 COUNTY(S): Clatsop  
 ELEVATION RGE: 1900' 2170'

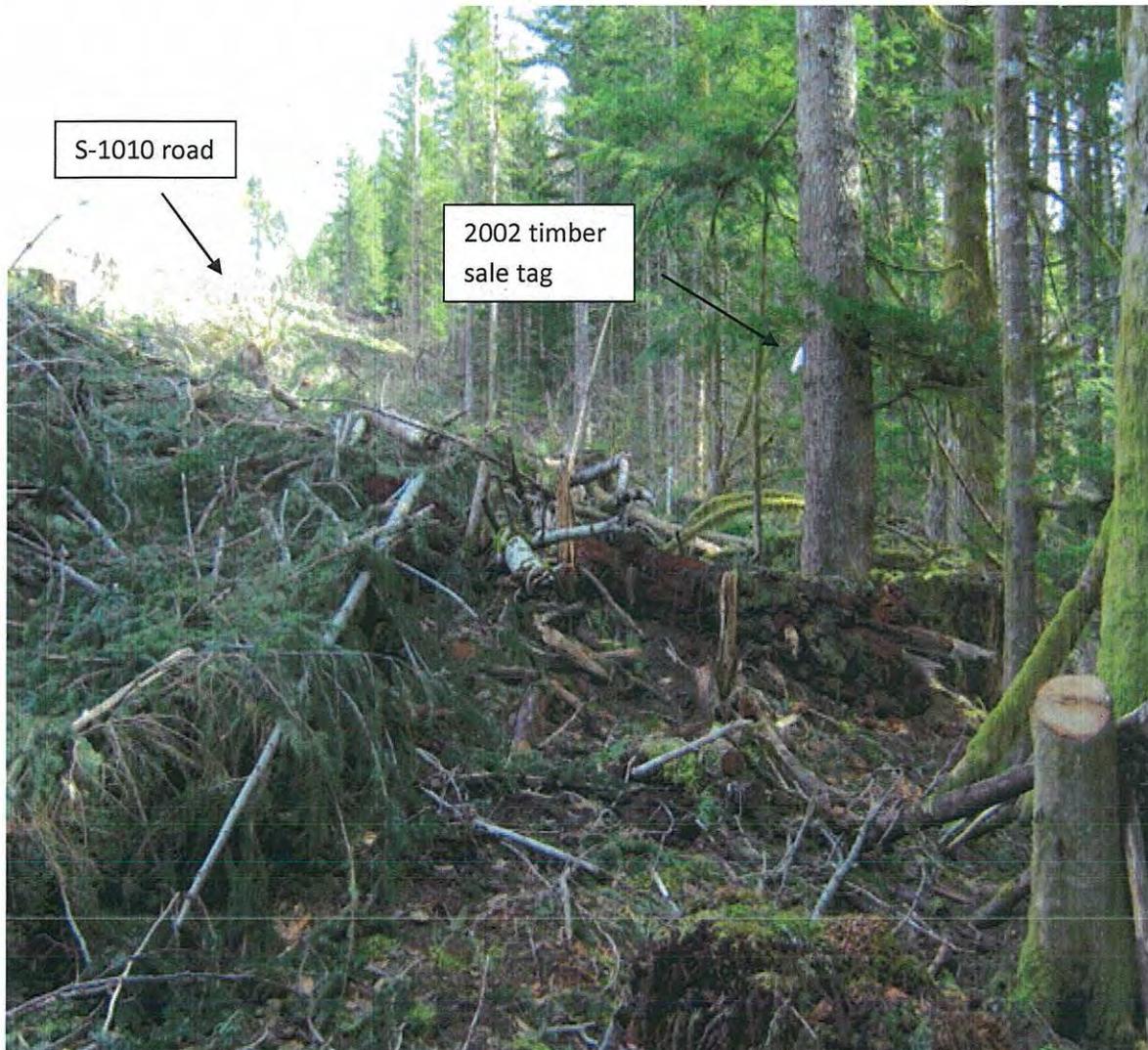


|                             |                      |                |
|-----------------------------|----------------------|----------------|
| RMZ Entry                   | Existing Forest Road | Water Type     |
| Sale Boundary               | Pre-haul Maintenance | Stream_Dreak   |
| Leave Tree Clumps           | Reconstruction       | Section_Corner |
| RMZ Buffer                  | Streams              |                |
| Public Land Survey Sections | Single Leave Trees   |                |
| DNR Managed Lands           |                      |                |

Prepared By: Jan Olson

Creation Date: 08/19/2009

Modification Date: 04/23/2012



Replay VRH Unit #1 photo #1-

Looking northeast from the end of the Type 4 RMZ harvest toward the S-1010 road. The Type 4 stream segment is to the right side of the photo within the trees.



Replay VRH photo #2-

Looking southeast from the end of the Type 4 RMZ harvest toward the Type 4 stream. The difference in buffer width can be observed on the south side of the stream, where the 100' minimum buffer width was retained.

## SAYERS, LISLIE (DNR)

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**From:** SPRAGUE, CLAY (DNR)  
**Sent:** Thursday, April 11, 2013 2:13 PM  
**To:** SAYERS, LISLIE (DNR)  
**Subject:** FW: RMZ Issue - Replay VRH TBS  
**Attachments:** Replay VRH T4 Buffer.pdf

**Importance:** High

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**From:** WISCH, ERIC (DNR)  
**Sent:** Friday, March 30, 2012 7:06 PM  
**To:** YOUNG, LENNY (DNR); Stephenson, Cullen (DNR); SPRAGUE, CLAY (DNR); SACKETT, JULIE (DNR)  
**Cc:** WISCH, ERIC (DNR); ESTEP, ALLEN (DNR); TURLEY, CHUCK (DNR); McDONALD, MARY (DNR); JOHNSON, BOB (DNR); SHANK, JIM (DNR); JOHNS, MARCUS (DNR)  
**Subject:** RMZ Issue - Replay VRH TBS  
**Importance:** High

Hello,

In the course of a post harvest unit evaluation, a RMZ irregularity was discovered on the Replay VRH TBS which is located in the Siouxon Block. This sale was designed in 2009, sold in 2010 and harvested in 2011. The sale has been closed out and is awaiting reforestation.

The 2010 sale area was the location of an earlier harvest (a thinning) in 2002. Due to differences in water type rules between 2002 and 2009, the affected stream was typed differently; Type 5 in 2002 and a Type 4 in 2009. We don't think this was a contributing factor, but still need to verify.

Based on 2009 field work, the water for the segment in question was determined to be a Type 4 water and a 100' minimum buffer was prescribed for both sides of the stream. The sale maps indicate this appropriate buffer. But, there is an area on the ground today that does not match this prescription. There is a strip about 500' long by 70'-80' wide that is missing the total buffer width. This is an area estimated to be about 1 acre. The total RMZ buffer area for this sale is 67 acres, so we are missing about 1 % of the planned RMZ area. In addition, there are some areas where more than the minimum RMZ width was retained. See attached map. But, the buffer width on Type 4 waters is a minimum, so averaging should not have been employed in the layout on this stream segment. It appears that it should have had a 100' buffer on both sides in order to be in compliance with Procedure 14-004-150.

We still do not know "why" this is the case. The harvested area does follow posted tags on the ground, so there doesn't appear to be an issue with the harvester at least at this point. It appears that the tags were hung in the wrong location on the ground. To complicate matters, the person who posted the boundary has left the agency.

We are continuing to investigate the "why" so we can fully understand it. We will likely need to contact the previous employee to ascertain what happened on the ground.

I will let you know once we complete the investigation. We have or will make all the notifications as specified in the PC Region Reporting and Notification protocols, including notification of Clay Sprague, HCP Implementation Manager and local Forest Practices staff.

Eric

**Eric Wisch**

Region Manager

Pacific Cascade Region

Washington State Department Of Natural Resources (DNR)

(360) 575-5001

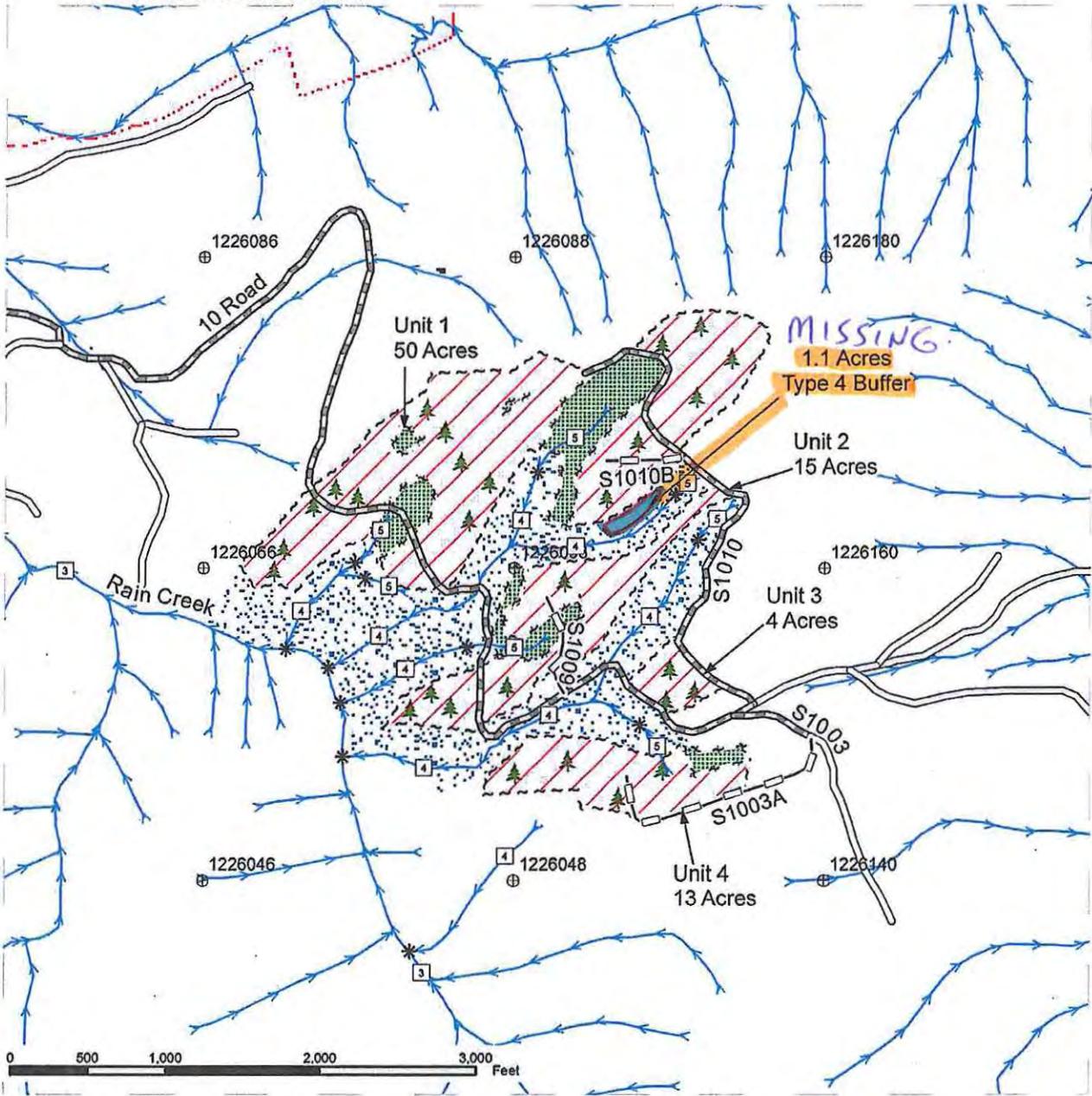
[eric.wisch@dnr.wa.gov](mailto:eric.wisch@dnr.wa.gov)

[www.dnr.wa.gov](http://www.dnr.wa.gov)

# TIMBER SALE MAP

**SALE NAME:** Replay VRH  
**AGREEMENT#:** 30-085644  
**TOWNSHIP(S):** 7NR5E  
**TRUST(S):** 01 State Forest Board Transfer  
 02 State Forest Board Purchased

**REGION:** Pacific Cascade  
**COUNTY(S):** Skamania  
**ELEVATION RGE:** 1300'-2170'



|                             |                      |                |
|-----------------------------|----------------------|----------------|
| Sale Boundary               | Existing Forest Road | Water Type     |
| Leave Tree Clumps           | Pre-haul Maintenance | Stream_Break   |
| RMZ Buffer                  | Reconstruction       | Section_Corner |
| Public Land Survey Sections | Streams              |                |
| DNR Managed Lands           | Single_Leave_Trees   |                |

**From:** [Vansot, Sarah \(DNR\)](#)  
**To:** [SAYERS, LISLIE \(DNR\)](#)  
**Subject:** FW: Civil Penalties  
**Date:** Monday, January 27, 2014 8:03:16 AM

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As requested. 😊

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**From:** Blum, Kyle (DNR)  
**Sent:** Friday, February 08, 2013 3:22 PM  
**To:** DNR DL DIV-ENG; DNR DL DIV-A&PM; DNR DL DIV-FRD; DNR DL DIV-ML  
**Subject:** Civil Penalties

Today, I received two civil penalties for forest practices violations that occurred on state trust lands. I believe these penalties are significant enough that it is worth taking a moment to reflect on how we got here and how we can best move forward. We will post the penalty information on the state lands SharePoint site in the near future so that you may review it for yourself.

Even if the penalties in question did not originate in the region where you are employed, they are indicative of a pattern of issues that exist throughout state lands and are relevant to all of us.

There are many factors that contributed to the violations. At a site specific level, there are different fact patterns and circumstances that led to each deviation or violation. We have already taken meaningful steps to remedy these and many other issues. We have worked to improve communications, reduce sediment delivery associated with haul, and expand training opportunities for new employees. Nonetheless, there remains more work to do.

If we step back to look at the bigger picture, I think it is important to acknowledge the difficult environment we have all been working in and the unfortunate consequences of some choices that were made.

The economic collapse of 2008-2009 had an enormous impact on our agency. Timber prices plummeted, and we were forced to make very difficult decisions that included significant reductions in staff. Despite the drop in capacity, we did not reduce our volume targets. We curtailed key support functions to save money and move as much timber volume as possible to raise revenue and “pull” the agency’s cash flow problem out of a nose dive and into a positive direction. The unfortunate impact of those decisions was an environment where workloads were high and time may have been inadequate to ensure our quality control standards were what they needed to be.

It is for this reason that I asked the two civil penalties be written to me. As the leadership team for State Uplands, we take responsibility for the decisions we made that may have

contributed to these violations. This is not to say we planned or expected these violations to occur, or that we ever consciously decided to neglect our resource protection responsibilities to make money. But, when we operate in an environment where staff may be stretched, we introduce a level of risk to our operations that increases the potential for these violations to occur.

We have had our pedal to the metal these last few years, working diligently to meet our volume goals, silviculture objectives, and RMAP schedule. Moving forward, we will explore ways to rebuild capacity and increase checks and balances without introducing more paperwork or ineffective process. I ask you to take time at your district meetings to develop ideas around the theme of accountability and quality control and move those up to the leadership team. This is a high priority and I'd like to see any ideas you may have by the end of February.

Moving forward, the leadership team and I fully expect to carry forward several principles:

- 1.) Integrity - We will continue to uphold a high level of integrity. If we make mistakes at any level, we will clearly communicate them. We will continue to self-report all real or potential violations or deviations from the forest practice rules or the HCP.
- 2.) Culture of learning - We will maintain an open environment where we share lessons learned, both positive and negative.
- 3.) Accountability - We will be accountable to each other, our leadership teams, the regulatory environment, and the trusts we manage. We all need to take responsibility for ensuring our workloads are manageable, our deliverables are within reason, and that we communicate any issues through our respective chain of command.

We have an incredibly important job to do and it is rarely easy, so please use these circumstances as an opportunity to re-evaluate. Often, difficult circumstances are the best learning opportunities. Thank you for all the incredible work you do for DNR and the trusts. We look forward to seeing your ideas.

**Kyle Blum**

Deputy Supervisor for State Uplands

Washington State Department of Natural Resources (DNR)  
(360) 902-1725 (Desk)

(360) 701-9098 (Cell)

[kyle.blum@dnr.wa.gov](mailto:kyle.blum@dnr.wa.gov)

[www.dnr.wa.gov](http://www.dnr.wa.gov)





February 21, 2013

Lenny Young, Department Supervisor  
Department of Natural Resources  
PO BOX 47001  
1111 Washington St. SE  
Olympia, WA 98504-7001

Subject: Right to Appeal, Notice of Penalty 12-V-THR and Notice of Penalty 12-C-YHG

The Washington Department of Natural Resources State Uplands program (State Uplands) received in person a "notice of penalty incurred and due" (notice or collectively as notices) on Friday, February 8<sup>th</sup>, 2013 from the Washington Department of Natural Resources Forest Practices program (Forest Practices) as referenced by Notice of Penalty 12-V-THR and 12-C-YHG (penalty or collectively penalties). As specified in the notices State Lands can request two appeal options and is electing for option 1, Department Supervisor review.

### **Intent of Appeal**

State Uplands is appealing the penalties, not because State Uplands believes it has been treated unfairly, but to clarify the record and to fully describe to Forest Practices and the Supervisor the work that has been accomplished to improve accountability within State Uplands program, as this relates to the specific violations contained in these penalties. This includes the actions State Uplands has implemented upon discovery of the historic (5 years and less are used as history for the penalties) deviations and receipt of these notices. Lastly, we are requesting modifications to the penalties and offer near term recommendations for new accountability process implementation.

### **Landowner Involvement, Stewardship, and Positive Successes**

State Uplands takes all enforcement action seriously. This has been demonstrated by our repeated self-reporting of deviations/violations (of which many were de minimus) upon discovery, voluntary internal stand downs and reviews, and appropriate mitigation where needed. As stated in Washington Administrative Code (WAC) 222-46-010 "it is the policy of the board to encourage informal, practical, result-oriented resolution of alleged violations..." it goes on "...civil penalties should be one of the least used enforcement mechanism; such an approach usually begins with consultation and voluntary efforts to achieve compliance while generally reserving civil penalties to more serious infractions". We have appreciated and embraced this "lowest level first" approach in the past and request Forest Practices and State Uplands continue to act in accordance with this philosophy and Forest Practices rule direction.

WAC 222-46-060 (3) (b) (vi) "Landowner involvement" describes the concept of exercised reasonable prudence. State Uplands consistently demonstrates reasonable prudence by:

- 1.) Implementing a complex timber sale program with thorough environmental review including completion of SEPA for each sale; strong supporting policies (i.e. Policy for Sustainable Forests); established timber sale contracts with more protection than any in the industry; and dedicated contract administrators.
- 2.) Implementing appropriate mitigation and corrective actions upon discovery of all deviations/violations.
- 3.) Implementing immediate and thorough post incident review including program and region stand-downs post major incidents.
- 4.) Implementing a complex Habitat Conservation Plan (HCP) that protects more upland and aquatic habitat than the Forest Practices Act and rules. For example leaving one hundred (100) foot no harvest buffers for the entirety of type four (Np) streams: quadruple the protection of Forest Practices rules. Also, State Uplands voluntarily and with frequency places green and legacy trees along type five (Ns) waters to further protect water quality.
- 5.) Implementing a full scale programmatic review resulting in accountability changes. You will find examples attached (appendix B).

We would be remiss to not point out the success rate State Uplands has demonstrated over the last several years— success rate being the number of sold sales with deviations/violations divided by the total number of sold sales. **State Uplands conducted an internal review of 1,163 sold sales statewide for the last 6.5 year period, and found 56 with some sort of Forest Practices regulatory documentation – this includes Informal Conference Notes, or non-violation documentation. Our success rate was over 95%.** The majority of these deviations/violations is self-reported and is de minimus or low in severity. The deviations noted were generally for haul road non-compliance, actions by operators not following contract terms, and/or for deviations from an approved application. By way of comparison, the April, 2012 Forest Practices Compliance Monitoring Report, reported rule compliance for all landowner road activities as 87%. The western Washington landowner compliance rate for all riparian management zone (RMZ) treatments for type (F) streams was 58%. While the State Uplands sold sale success rate cannot be directly compared to Forest Practices Compliance Monitoring rates, it does suggest State Uplands is likely far exceeding average compliance rates with Forest Practices rules, and may be exceeding the Forest Practices performance measure for rule compliance of 90%.

### **Recommended Modifications**

State Uplands is requesting a remission of the penalties or at the minimum a reduction in the penalty multipliers, effectively making the penalty the base amount. The historic enforcement actions identified (see appendix A, Summary sheet) are not of like circumstance, were generally unknown to State Uplands

until discovered and then self-reported, spanned a 5 year time frame, and offered no substantial economic benefit. Set against a backdrop of reasonable prudence, Forest Practices required little or no additional action (reference to WAC 222-46-060 (3) (b) (vi)). As noted in the calculation worksheet, State Uplands has been extremely cooperative in implementing expedient resolution and mitigation. Attached (appendix A) is a summary of voluntary actions and applied mitigation measures showing good faith and practical result-oriented changes for historic deviations. A remission in combination with State Uplands proposed mitigation should be in the best interest of Forest Practices for purposes of carrying out the Act (WAC 222-46-060 (7)).

### **Correction of the Record and Request for Clarification**

State Uplands places a high value on our track record, reputation, and image as a good steward of trust assets and associated public resources. Regardless of the Supervisor decision we request the record be clarified and corrected as follows.

For Notice of Penalty 12-V-THR:

- 1.) The compliance monitoring form used to construct the severity of the violation in the notice indicates the non-compliance as "major". This is inconsistent with the "Sampling and Field Protocols" listed in the April 2012 Compliance Monitoring Report (page 7). There was no harvest in the RMZ core zone and hence the severity should be corrected to "moderate". State Uplands is requesting a correction to the record.
- 2.) The civil penalty assessment form narrative states the violation "caused environmental damage to a fish bearing stream". A fully stocked and mature RMZ was retained within sixty (60) feet of the bank full width and the harvest occurred on one side. Please clarify using intent and rule citation where there is direct environmental damage to the stream. Otherwise State Uplands is requesting a correction to the record and strike the phrase "caused environmental damage to a fish bearing stream".
- 3.) The civil penalty assessment form indicates a 100 year period for function recovery. The site has already been replanted and a mature RMZ was retained within sixty (60) feet of the stream. Riparian buffer rules are intended to provide long term wood recruitment, shade and other riparian functions. While long-term wood recruitment may have been compromised to some degree on one side of the stream, shade and other riparian functions are being provided by the mature RMZ on both sides of the stream, and retention of the core zone perpetuates ecological function at some scale. Please clarify why an extreme recovery period has been stated or correct the record for a more appropriate recovery period.
- 4.) The civil penalty decision worksheet included in the notice describes similar deviations occurring in the region. Of the cited deviations only one was similar in nature with improper marking of an RMZ. Please correct the record and clarify with detail the nature of likeness for the deviations (see appendix A).

For Notice of Penalty 12-C-YHG:

- 1.) The civil penalty decision worksheet included in the notice describes similar deviations occurring in the region. Of the cited deviations only one was similar in nature with improper marking of an RMZ. One cited deviation was actually an ICN. WAC 222-46-060 (3)(b)(IV) does not list ICN's as an enforcement action for this purpose. Please correct the record and clarify with detail the nature of likeness for the deviations.
- 2.) The Forest Practice violation and civil penalty assessment form states that the "violation was foreseeable and no precaution was taken to avoid it". As indicated above we have identified and implemented numerous actions to prevent and avoid these unintended actions. Please reevaluate the Intent portion of the assessment and correct the record.

### **Request for Assistance in Special Cooperative Process**

State Uplands is an active land manager operating on landscapes throughout the state. Inside every large organization with multiple layers of staff, mistakes occasionally occur. We have put many additional safeguards in place and are developing processes to limit the opportunity for similar deviations/violations to reoccur.

While implementing program changes during the next 24 months, we request direct Forest Practices assistance and evaluation. We are proposing that State Uplands and Forest Practices engage in a special process designed to actively engage both parties in a review of program implementation. During this special cooperative process or mitigation period we are requesting formal bi-yearly implementation review meetings with Forest Practices representatives from the division and regions, as appropriate. At these reviews, we would like to provide detailed overviews of our progress, demonstrate successes, and receive feedback from Forest Practices staff.

We are striving for change and improvement in accountability, which should result in programmatic and on-the-ground improvements in management practices. Gaining feedback from an outside perspective through a regulatory lens will help us understand if the programmatic changes we are implementing are effective for desired behavior change. We also feel it is important that during this special cooperative process the enforcement action is kept at the "lowest level first" and on a case by case basis. Additional civil penalties would prove detrimental to the momentum for programmatic changes being implemented. However, in the event of an extreme deviation or violation we anticipate Forest Practices would take enforcement action appropriate for the deviation/violation.

We are directing our staff to continue informal and frequent communication with Forest Practices at the field level. State Uplands will continue the practice of self-reporting all deviations/violations. This should be ongoing and will not change during the special process period or beyond. We anticipate at the end of the mitigation period there will be a lasting reduction in forest practices deviations/violations and State Uplands will remain above the 95% success ratio, well above Forest Practices performance measure for rule compliance of 90%.

My staff and I are at your full disposal and look forward to meeting in person to discuss this appeal. If you have any need for information please contact David Bergvall or Tami Ishler and they will coordinate the request posthaste.

Sincerely,

A handwritten signature in cursive script that reads "Kyle Blum".

Kyle Blum  
Deputy Supervisor for State Uplands

Enclosures (2)

c: Julie Sackett  
Darin Cramer  
Jed Herman  
David Bergvall  
Mary McDonald  
Donelle Mahan  
Chuck Turley  
Chuck Johnson  
Region Managers

## Appendix A, Summary Sheet for Penalties 12-C-YHG and 12-V-THR; Analysis of Documented Forest Practice Deviations/Violations

### Pacific Cascade Region (12-C-YHG)

| Incident identifier          | Date       | Summary   | Fall downs - <i>Specific errors/gaps</i>   | HCP/FPA/Sale contract  | Mitigation completed   | “Surface Causes”  | “Core Cause(s)”  |
|------------------------------|------------|---|--|--|--|---|--|
| Replay TBS<br>NTC 120194     | June 2012  | 4 unit TBS; Siouxon Block; NRF area for Northern Spotted Owl under HCP. Activity was a variable retention harvest (VRH) follow up to a variable retention thinning (VRT) habitat enhancement done in 2002. VRH presales done in 2009 to harvest portions of the original VRT sale. Streams retyped for new activity. Some streams changed typing. Unit 1 type 4 stream was originally a type 5 in 2002. South side of stream had 100’ RMZ while north side of same stream had variable buffer with trees cut within 100’. 0.9 acres of RMZ removed. Found post-harvest by state lands and reported. | Some original tags from 2002 harvest still visible on south side of stream in question (double tag lines). Unknown if area in question had two tag lines or if this small portion of the sale did not get new tags during presales for the 2009 VRH. Same forester on presales and compliance. He believed original tags (2002) had been pulled. | <b>HCP</b> – requires a 100’ buffer on type 4 waters.<br><b>FPA</b> – Deviated from FPA. Map and application indicated that 100’ buffer was being proposed. State Lands notified FP of the deviation.<br><b>Tbr Sale contract</b> – sale was closed out prior to finding deviation. Unknown if old tags were the only tags along this stream segment or if there were two lines and one line was cut by purchaser. | Activity found post-harvest. Reestablish stand in this area.<br><br>Because of the nature of the management objectives in this area a substantial number of additional acres of leave trees had already been designed into the sale. | -All the old tags were not pulled.<br>-Old tags were made of a persistent (heavy gauge) plastic and have been discontinued due to issues like this.<br>- CA mentioned during pre-work meeting with purchaser rep and logger rep that old tag lines may exist.<br>-Old tag Information was not communicated to all timber fallers.<br>-CA did not notice old tags during presale layout. | -Old tag line followed different set of rules and was hard to find/follow.<br>-Highly complex timber sale layout and compliance limits CA time spent on site.<br>-Operators unfamiliar with DNR HCP guidelines.<br>-Communication<br>- Failure to remove old field marking |
| Greenstone TBS<br>ICN 120036 | March 2010 | 5 trees within a Type 3 RMZ were cut by a new faller on Unit #1 before the operator could stop the action. Timber sale tags were properly marked and an operator error occurred in starting in the  | There was no communication with the on-site operator and the new faller in showing exactly where to start felling timber.  | <b>HCP</b> - requires a no-harvest site index RMZ unless approved with FPA (HCP RFRS).<br><b>FPA</b> - Deviation from FPA. Map and application   | Purchaser was billed for trees felled in RMZ and did not remove them.<br>5 trees were located as leave trees adjacent to RMZ’s in the sale area.   | -Communication between operator and faller was not sufficient.<br>-CA had discussed no harvest or   | <b>DNR only controls the communication with the purchaser’s rep. .</b> , and DNR doesn’t have direct control of the logging  |

**Appendix A, Summary Sheet for Penalties 12-C-YHG and 12-V-THR; Analysis of Documented Forest Practice Deviations/Violations**

| Incident identifier             | Date          | Summary  | Fall downs - <i>Specific errors/gaps</i>  | HCP/FPA/Sale contract   | Mitigation completed   | “Surface Causes”   | “Core Cause(s)”  |
|---------------------------------|---------------|--|---|---|--|--|--|
|                                 |               | wrong location. FP was notified and issued Informal conference note. The trees were left as downed wood in the RMZ and 5 additional leave trees were left adjacent to Type 3 and 4 waters in the sale area.  | Tags were clearly evident near location falling occurred.   | indicated a no-harvest RMZ.<br><b>Tbr. Sale Contract-</b> Violation of the contract. Operation shut down until clarification, expectations and notice to comply conditions met.   |  | equipment in RMZ’s during pre-work. No notice given to CA by purchaser of new faller on-site. -Extra maps were issued to purchaser rep during pre-work, no follow-up with making sure they were being distributed. | company. Minimal penalties within the TBS contract.  |
| Mill 2000 TBS<br><br>ICN 120037 | February 2010 | Four-unit sale in the P&E Block, several units adjacent to MM occupied or reclassified habitat. Activity was a VRH with a buffer next to occupied MM habitat. The buffer on the ground was 165' wide but the paperwork in the sale jacket said the buffer was 300' wide. | This was a sale that had many different people all working on different aspects of the sale layout at the same time. The people that marked the 165' buffer in the field were not the ones who did the paperwork later, and apparently the buffer width was not communicated effectively. The person who did the paperwork assumed a 300' buffer was used. <u>This occurred during the blowdown effort from the 2007 storm, people were</u> | <b>HCP</b> - Either a 300' managed buffer or 165' no touch buffer was acceptable at the time. <b>FPA</b> - Deviated from the FPA, paperwork said 300' buffer but it was 165' in the field. <b>Contract</b> - No violation of the contract, harvesting occurred as marked in the field and consistent with the contract. | Found post-harvest, ensure proper regeneration of the harvested portion of the buffer out to 300'. | Poor communication between the field staff who laid out the sale and the person who did the final paperwork. Field staff was not part of the final sale review.  | Inadequate staffing at the time to deal with the blowdown event and continue to accomplish all “normal” work at the same time. There was no “one” person in charge of the entire pre-sales effort for this sale – lots of different people doing different tasks at the same time and nobody to bring it all together. |

**Appendix A, Summary Sheet for Penalties 12-C-YHG and 12-V-THR; Analysis of Documented Forest Practice Deviations/Violations**

| Incident identifier                                    | Date          | Summary   | Fall downs - <i>Specific errors/gaps</i>  | HCP/FPA/Sale contract  | Mitigation completed  | “Surface Causes”  | “Core Cause(s)”  |
|--|---------------|---|---|--|---|---|--|
|  |               |   | coming in from other areas to help out that were not familiar with the mm procedures.   |  |   |   |  |
| Barnes a<br>Burning TBS<br><br>NTC 120040<br>ICN 18924 | February 2010 | Multiple unit, combination VRH and Thinning TBS w/ RFRS prescriptions in the Pumphrey Block. During a compliance visit CA found TBS boundary to be very close to a large type-3 stream. Following investigation of this area, and the rest of the sale the following issues were discovered with sale layout/markings.<br>-U5 WMZ not established and 6.5 acres of WMZ was VRH harvested.<br>-U4 RMZ partially thinned & partially VRH harvested (2.6 ac.), did not identify areas as RFRS prescription and no down wood placed in stream.<br>-U4WMZ not established and 3.4 acres of WMZ was harvested.<br>-U4 2.3 acres of upland harvested, but not included in FPA.<br>-U3 RMZ was thinned next to mis-typed stream (called T-5, but should have been T-3). Thinning met RFRS BA/A, but no downed | Based on the number of errors in sale layout there were likely multiple causes:<br>-This sale had been worked on by many foresters over a 5-8 year period. There were several old tag lines found on site from the various sale designs over the years.<br>-Browser review comments regarding wetland delineation were not adequately addressed.<br>-Sale documents were reviewed the month after the 2007 windstorm, resources were preoccupied with the storm<br>-Attention to detail by layout forester, who left the department prior to this being discovered. | <b>HCP</b> – Not compliant with RFRS, Did not identify or protect wetlands, Mis-typed Type 3 stream, and inadequate number of Leave Trees.<br><b>FPA</b> – <u>Deviation from Approved Application, &amp; Violation of FPA or rules.</u> (WAC 222-20-060 & 222-30-050(1) (a). (No HPA)<br><b>TBS contract</b> –None, harvested as marked on ground. | -Harvest of WMZ: Retain 17 acre site about one mile from sale area as permanent deferral. Replant WMZ and provide yearly silviculture updates to FP.<br>-Unit 3 RMZ: Place 36 trees into Type 3 stream as per RFRS.<br>-Unit 4 RMZ: Place 22 large trees into Hull Creek, per WDFW stream restoration direction.<br>-Leave Trees: Create 1 snag/ac (100 total) on Blue Room Sorts TBS. Also, establish permanent deferral area south of Unit 4. | -Attention to detail in reviewing sale documents<br>-Department sponsored Wetland training.<br>-Basic understanding of RFRS prescriptions.<br>-Too many people involved in pre-sales, transfer of information was not adequate. | -Forester was not engaged in DNR mission and had diminished attention to detail. Dereliction of duty.<br>-Department sponsored Wetland training.<br>-Ability of organization to handle a crisis such as the 2007 windstorm, and normal business on the same timelines. (span of control during emergencies)<br>-Holding personnel accountable for mistakes.<br>Complex RX and previously marked/designed sale. |

**Appendix A, Summary Sheet for Penalties 12-C-YHG and 12-V-THR; Analysis of Documented Forest Practice Deviations/Violations**

| Incident identifier   | Date         | Summary  | Fall downs - <i>Specific errors/gaps</i>   | HCP/FPA/Sale contract  | Mitigation completed   | “Surface Causes”   | “Core Cause(s)”   |
|---|--------------|--|--|--|--|--|---|
|   |              | wood placed in stream.<br>-U4- Leave trees had to be removed following harvest due to safety concerns next to private residence. Reduced LT count in unit below HCP requirements.  | -Field forester’s wetland identification training was not sufficient.  |  |  |  |   |
| Western Lake<br>bow down<br>TBS<br><br>NTC 19318<br>ICN 18897 | June<br>2009 | Unit 2, a 2007 storm salvage timber sale located in the Nemah Block. A comprehensive riparian salvage plan was included in this project due to the 2007 windstorm. Approx. 40 trees were removed from a 320’ T-4 stream RMZ, between 25’ and 100’ from the stream (outer zone). These 40 trees were live trees. This area had already had all blown down trees removed from the area as per approved FPA and TBS contract. The feller buncher entered this area during the night and cut the remaining live trees. | The RMZ was flagged with pink ribbon at the 25’ no harvest boundary. This timber sale contract did not allow salvage between the stream and the 25’ inner zone boundary. This area had already been hand cut, and yarded correctly. The logging contractor had directed a feller buncher operator to start cutting on the left side of the C-2100 Rd, but the operator started on the right side of the road, during the night, when he could not see the blue flags denoting the 100’ RMZ buffer. The operator should have noticed this area had already been salvaged for wind thrown trees. | <b>HCP</b> – RFRS salvage plan (2/2008) allowed only removal of blow down from outer zones. Also, HCP compliance personnel at USFWS were contacted but no site visit or further mitigation was requested.<br><b>FPA</b> – <u>Deviation/Violation from approved application</u> (WAC-222-20-060). Removing live timber within outer zone as approved RFRS plan that was attached to FPA.<br>- <u>No resource damage</u> was noted on NTC.<br>-DNR self-reported this incident.<br><b>TBS Contract</b> – Breach of contract, Schedule A did not allow removal of live outer zone Zone Trees. TBS Purchasers required to complete mitigation. “Prescription card” was | -all live trees cut within the outer zone were left on site for downed wood.<br>- No trees within RMZ’s or within 50’ of the outer zone of any RMZ will be felled or processed prior to official sunrise.<br>- An area located adjacent to a stream that does not require protection would be left as a mitigation area. This area was identified near a type 4/5 confluence in unit #2. | -CA was doing a good job working with operators on site with regards to establishing guidelines for salvage in RMZ’s, providing “prescription cards” and ensuring boundaries were marked.<br>-The area of concern had already been salvaged appropriately when the feller buncher operator mistakenly entered this area again.<br>-Because the operation occurred in the early hours of the morning, | <b>DNR only controls the communication with the purchaser’s rep.</b> , and DNR doesn’t have direct control of the logging company. Minimal penalties within the TBS contract.<br>-Complexity of prescription near sensitive sites may increase chance of resource damage.<br>-The primary background of proposing salvage within the RMZ’s of type 3 and 4 streams following the 2007 windstorm was to rehabilitate these RMZ’s. With the high site ground near the |

**Appendix A, Summary Sheet for Penalties 12-C-YHG and 12-V-THR; Analysis of Documented Forest Practice Deviations/Violations**

| Incident identifier                       | Date     | Summary   | Fall downs - <i>Specific errors/gaps</i>  | HCP/FPA/Sale contract  | Mitigation completed  | “Surface Causes”   | “Core Cause(s)”   |
|---|----------|---|---|--|---|--|---|
|   |          |   |   | provided to operator on salvage sales that describe harvest specifications. (did not comply with this card.)   |   | before daylight, the operator could not see the markings, but should have easily seen the area had already been salvaged harvested.  | coast, the RMZ’s would have become occupied by competing vegetation if left un-treated.   |
| Falls Fork blow down TBS<br><br>NTC 19313 | May 2008 | Unit 5, an add-on unit to Falls Fork TBS, located in the Browning Block. A comprehensive riparian salvage plan was included in this project due to the 2007 windstorm. Approx. 46 trees were removed from a 300’ T-3 & T-4 stream segment within the inner zone, and shovel tracks were found as close as 15’ from the stream. <u>This was the 1<sup>st</sup> operation utilizing the RFRS salvation plan adopted by Forest Practices due to the 2007 storm.</u> State Lands self reported the deviation. | The CA had met with the shovel operator and site boss the day prior to this occurring. She had been told this would be cable logged and felt the operator understood the inner zone trees must stay on site. The operation was prescriptive, and no field markings were in place (due to safety hazards) to delineate take vs. leave logs. All timber was blown down. | <b>HCP</b> – RFRS salvage plan (2/2008) allowed only removal of blow down from middle and outer zones.<br><b>FPA</b> – <u>Deviation from approved application</u> (WAC-222-20-060). Removing timber that originated from inner zone, as approved RFRS plan that was attached to FPA.<br><b>TBS Contract</b> – Breach of contract, Schedule A did not allow removal of Inner Zone Trees. TBS Purchaser required to complete mitigation. | -15 logs were placed within 10-25’ from stream channel<br>-16 logs were placed across channel<br>-15 logs were placed in groups of 3-4 “jackstrawed” near channel to mimic blow down.<br>-water bar areas where equipment operated closer than 50’<br>-Creation of a “prescription card” that all loggers must carry while operating on salvage sales that describe harvest specifications. | -CA met with the operator the day before this occurred and felt there was complete understanding of the desired results.<br>-Shovel operator had health problems that may have affected his ability to comprehend direction.<br>-This was the first time salvage over typed streams had ever occurred. It was new. | DNR only controls the communication with the purchaser’s rep., and DNR doesn’t have direct control of the logging company. Minimal penalties within the TBS contract.<br><br>-Complexity of prescription near sensitive sites may increase chance of resource damage. |

## Appendix A, Summary Sheet for Penalties 12-C-YHG and 12-V-THR; Analysis of Documented Forest Practice Deviations/Violations

### Northeast Region (12-V-THR)

| Incident identifier                   | Date       | Summary   | Fall downs -<br><i>Specific errors/gaps</i>  | HCP/FPA/Sale contract  | Mitigation required   | “Surface Causes”   | “Core Cause(s)”   |
|---------------------------------------|------------|---|--|--|---|--|---|
| Cajun Cougar Salvage TBS<br>NTC 21234 | 10/02/2007 | Follow-up AARF work was needed following the Cajun Cougar Salvage Timber Sale. Culverts were plugged following the Tripod Fire run-off. The Timber Sale Unit Forester met with the area Engineer to develop a plan for work. The Unit Forester submitted Request to Amend the FPA on 09/28/2007. The Engineer did not wait for the FPA approval and completed the work prior to amendment being approved. Violation discovered on 10/02/2007. | Lack of adequate communication between Engineering staff and the Contract Administrator. Culverts were cleaned out – and two were replaced in Type Np waters without a valid FPA. This was a deviation from the approved permit and a violation of 222-24-030 and 040. | FPA #301300, Cajun Cougar Salvage Timber Sale. Work was completed under an AARF Work Order.  | None. NTC determined no resources at risk. Work was completed appropriately in order to protect public resources. Request for FPA Amendment was never approved since work was already complete. | Engineer was not aware of the need to amend the FPA and assumed work was covered under the existing FPA.                     | The need to amend the FPA was not communicated to the Engineer from the Timber Sale Unit Forester. In NE Region, the Engineers do not work for the Districts. Communication between Engineers and Timber Sale Units may be inadequate in some cases with regards to what, when, how, and why projects are needed within geographic district boundaries. |
| Fargo TBS<br>NTC143012                | 05/30/2012 | During a Forest Practices compliance monitoring visit, it was discovered that skid trail construction and harvesting occurred within the RMZs of the Fargo Timber Sale. Harvest was found to have occurred as close as 51 feet from the Middle Fork Deer Creek (Type F).  | Incorrect water type breaks were used by the district field forester when laying out the RMZs. Incomplete review of the FPA by district staff before submittal.  | DNR was cited with a significant deviation from the approved Forest Practice Application including the following: Harvest of timber within two Type F RMZs; Skid trail construction within the inner zone of Type F RMZ. The FPA, as | DNR is required to reforest the harvested areas of the Type F RMZs, including skid trail, at a rate of 300 trees per acre.  | This timber sale passed hands several times during the presales stages of its development. Communication breakdowns occurred | At least two water typing surveys (WTMs) were completed. The forester that initiated the WTMs became injured. He did not let his supervisor know what had been  |

**Appendix A, Summary Sheet for Penalties 12-C-YHG and 12-V-THR; Analysis of Documented Forest Practice Deviations/Violations**

| Incident identifier         | Date       | Summary  | Fall downs - <i>Specific errors/gaps</i>  | HCP/FPA/Sale contract  | Mitigation required | “Surface Causes”  | “Core Cause(s)”   |
|-----------------------------|------------|--|---|--|---------------------|---|---|
|                             |            | Harvest also occurred as close as 57 feet of an unnamed tributary to the Middle Fork Deer Creek.   |   | submitted, stated no harvest would occur within the Type F RMZ of Middle Fork Deer Creek.                  |                     | throughout the presales and compliance processes.                         | done. District staff discovered that the WTMs had been submitted but did not see copies of the decisions. They used other information from a WDFW biologist which explained where he thought the water type breaks were. This information, however, was not submitted as an official water type change. |
| Power Peak TBS<br>NTC141012 | 11/13/2009 | Seven trees were harvested within the outer zone of a Type F (Dorchester Creek) RMZ. The established RMZ on this Type F stream was 110’. | FPA did not state any outer zone harvest would occur within the 110’ of the RMZ. Incomplete review of the FPA by district staff before submittal. | FPA – did not include outer zone harvest (deviation from FPA and a resulting incorrect FPA classification) | None                | Forester that completed the FPA did not use the correct RMZ harvest code. | A complete review of the entire timber sale package by district staff was inadequate and thusly the error was not communicated to the Region Pre-Sale staff prior to FPA submittal.   |

**Appendix A, Summary Sheet for Penalties 12-C-YHG and 12-V-THR; Analysis of Documented Forest Practice Deviations/Violations**

| Incident identifier                | Date       | Summary   | Fall downs - <i>Specific errors/gaps</i>  | HCP/FPA/Sale contract                                       | Mitigation required | “Surface Causes”   | “Core Cause(s)”  |
|------------------------------------|------------|---|---|---|---------------------|--|--|
| LeClerc II<br>TBS<br><br>NTC141024 | 03/11/2010 | Unit 4: 65 trees averaging 20” DBH were harvested outside the timber sale boundary. These trees were used as guyback trees for the line skidding operation. | Guyback trees were not designated for removal in the FPA. Incomplete review of the FPA by district staff before submittal. Inadequate supervision of inexperienced foresters. | FPA-Removal of guyback trees were not mentioned in the FPA. | None                | The forester that completed the FPA did not mention this activity in question 25 of the FPA. | Incomplete knowledge in completing the FPA and incomplete knowledge of Forest Practice Rules on behalf of the forester. A complete review of the entire timber sale package by district staff was inadequate and thusly the omission was not communicated to the Region Pre-Sale staff prior to FPA submittal. |

## Appendix B-State Uplands Program Changes for Accountability

### **Review:**

- 1.) July 2011 Product sale review for compliance with legal and policy obligations for Divisions and Regions statewide
- 2.) Fall 2011; State Uplands Strategies for quality control action plan developed with Region and Division managers (Have been working off this list IE State Lands Training)
- 3.) December 2012; Root Causes identification for all regions regarding forest practices deviation and violations
- 4.) February 2013; Memo to Region and Division managers for Forest Practices summary and proposed implementation of change

### **Implemented:**

- 1.) March 2010; Pacific Cascade region stand-down and review of all timber sales for compliance with Forest Practices act, HCP, policies, and procedures. This occurred post a FPA violation.
- 2.) June 2010; Wetland identification refresher module planned and implemented statewide
- 3.) June 2012; Developed State Uplands 101, a review of all the basic tenants, policies, and regulations that effect staff was given in presentations statewide during the period September-November 2012
- 4.) Ongoing; post any de minimus or greater deviation/violation a thorough review is complete. This takes form in informal After Action Reviews (AARs) or via formal reports where severity is greater.
- 5.) HCP compliance monitoring; during the economic downturn, State Uplands eliminated funding for uplands HCP compliance monitoring. We have reinitiated the program as another method to evaluate that our actions on the ground mimic the conservation strategies in the HCP.

### **Planned or being developed:**

- 1.) State Uplands training is slowly being reinitiated for all new employees. New modules are being built for process and layout education. Trainings will be at a state wide scale beginning February 2013 in NW region.
- 2.) Transition checklist; a checklist is being developed to pass on all the dynamics of a planned, in process, or completed timber sale to the next lead.
- 3.) Purchasers/operators workshops; similar to State Lands 101, but for purchasers and operators. The module will also focus on reviewing the contract clauses and typical scenarios that create conflict (i.e. hauling during wet weather).
- 4.) Task book for Forester 1's; this was implemented in the late 1990's as a mechanism to ensure new foresters were getting exposed to all the State Uplands centric complexities and included compliance with regulatory systems. The idea is currently being evaluated.
- 5.) Lessons Learned; creation of a lessons learned SharePoint site to track and share relevant information for positive success and areas for improvement. By intent the site creates a culture of learning and a transfer of knowledge.



November 18, 2013

**MEMORANDUM**

**TO:** Kyle Blum, Deputy Supervisor for State Uplands  
**FROM:** Lenny Young, Department Supervisor  
**SUBJECT:** Civil Penalties # 12/V/THR and #12/C/YHG

Thank you for meeting with me on March 19, 2013 regarding Civil Penalties #12/V/THR and #12/C/YHG. I regret that it has taken me several months--much longer than normal--to complete my review and inform you of my decision.

**Civil Penalty #12/V/THR**

After reflecting upon the information you provided, as well as carefully reviewing the civil penalty file, I am upholding Civil Penalty #12/V/THR in its entirety. I believe that this penalty was properly issued and calculated in consideration of all relevant factors including damage to public resources and previous, similar violations.

My responses to your requests to correct the record are as follows:

**Request #1 (categorization of non-compliance).**--I uphold categorization of non-compliance as "Non-compliant Major." The Compliance Monitoring Protocols for Western and Eastern Washington 2013 Revision defines "Non-compliant Major" as "Damage to public resources is evident or the potential is high." "Non-compliant Moderate" is defined as "Potential impacts to resources, but generally of [sic] moderate effects." The violations that underlie Civil Penalty #12/V/THR severely impacted the Riparian Management Zone (RMZ); damage to public resources was "evident", rather than "potential."

**Request #2 (damage to a fish-bearing stream).**--I take your point that damage was to the RMZ, not directly to the stream. The language "... caused environmental damage to the RMZ protecting a fish-bearing stream" would have been more appropriate than "... caused environmental damage to a fish-bearing stream."

**Request #3 (repairability).**--I uphold the department's conclusion that it will take approximately 100 years to achieve similar riparian function within the portion of the RMZ that was removed by construction of a 15-20 foot wide skid trail. Please note that the criterion used in this penalty modifier is whether natural recovery or effective correction will take more than 3 years. The period 100 years is used in a descriptive sense, not as a penalty determinant.

**Request #4 (previous violations).**--I uphold the department's conclusion that State Uplands committed similar violations within the past 5 years. On November 12, 2009, a violation was documented via Notice to Comply (NTC) #141012 whereby trees were harvested within the outer zone of a Type F RMZ. On October 2, 2007, a violation was documented via NTC #21234 whereby road construction and culvert replacement in "live" Type Np streams took place without an approved Forest Practices Application/Notification (FPA/N).

Although they do not directly bear upon Civil Penalty #12/V/THR, I want to point out two other violations by State Uplands that occurred within Northeast Region in the months following the issuance of Civil Penalty #12/V/THR. On May 14, 2013, a violation was documented via NTC #141056 whereby timber was harvested within the core and inner zones of a Type F RMZ, and 260 feet of skid trail was constructed within the core and inner zones. On July 31, 2013, a violation was documented via NTC #31529 whereby heavy equipment was driven across three Type Np streams during road construction, without the installation of culverts or water diversion.

It is not possible, and would not be appropriate, for the original civil penalty documents to be altered to reflect my response to your requests to correct the record. Accordingly, I will place a copy of this letter in the civil penalty file to document the following:

In the Supervisor's Comments section of the Forest Practices Violation and Civil Penalty Assessment for Violation #1, the language "... caused environmental damage to the RMZ protecting a fish bearing stream" is a more accurate characterization of the damage resulting from the violation than "... caused environmental damage to a fish bearing stream."

### **Civil Penalty #12/C/YHG**

After reflecting upon the information you provided, as well as carefully reviewing the civil penalty file, I am upholding Civil Penalty #12/C/YHG in its entirety. I believe that this penalty was properly issued in consideration of all relevant factors including damage to public resources and previous, similar deviations.

I believe that the department should have assessed repairability and severity of the deviation when it adjusted the base penalty. I believe that this was not done due to uncertainty that existed at the time the penalty was issued around enforcement of deviations by landowners who are operating under the aegis of an approved habitat conservation plan (HCP) or similar agreement.

If repairability had been assessed, I believe it would have been categorized as "2 - Natural recovery or effective correction will take more than 3 years or the damage may never be effectively corrected" because restoration of riparian function lost due to the deviation will take longer than 3 years. If severity had been assessed, I believe it would have been categorized as either "2 - There is damage or potential damage, but not extensive" or "4 - There is extensive and/or significant damage to public resources", depending on how the Forest Practices staff viewed the deviation within the context of its riparian setting. Together, these adjustments would have increased the calculated penalty by \$8000-\$12,000, for a total of \$20,000-\$24,000. However, the maximum penalty constraint of \$10,000 per violation would have limited the penalty to the \$10,000 that was assessed.

My responses to your requests to correct the record are as follows:

**Request #1 (previous violations).**--I uphold the department's conclusion that State Uplands committed similar deviations within the past five years. I find that four of the five deviations noted in the Previous Violation section of the Forest Practices Violation and Civil Penalty Assessment represent similar deviations. On February 1, 2010, a deviation was documented via NTC #120040 whereby trees were felled and bucked over Type F water. Informal Conference Note (ICN) #120036 (March 8, 2010) documents the felling of 5 trees within the outer zone of an RMZ; it appears that this was a deviation from the HCP riparian prescription specified in the FPA/N although the ICN is not clear in that regard. On June 23, 2009, a deviation was documented via NTC #19318 whereby 40 trees that were required to be left standing were felled over a 320 foot length of Type 4 (HCP classification) RMZ. On May 21, 2008, a deviation was documented via NTC #19313 whereby all trees were felled and removed along a 300 foot stretch of a Type 3/4 stream.

I agree that NTC #120037 does not represent a deviation similar to the deviation that underlies Civil Penalty #12/C/YHG: it involves inadequate buffering of occupied marbled murrelet habitat, not activities within an RMZ.

**Request #2 (intent).**--I uphold the department's categorization of the deviation as "1 - The violation was foreseeable and no precaution was taken to avoid it." While I cannot assess the extent to which precautions were taken, the deviation clearly was foreseeable, and the alternative categories ("0 - The violation was not foreseeable" and "2 - The violation occurred after consultation, Informal Conference or other enforcement action") do not fit. As the department

Kyle Blum, Deputy Supervisor for State Uplands  
November 18, 2013  
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concluded, "Inaccurate boundary marking was likely the cause of the trees being cut & removed." This conclusion is supported by State Uplands' own report to U.S. Fish & Wildlife Service and NOAA Fisheries.

It is not possible, and would not be appropriate, for the original civil penalty documents to be altered to reflect my response to your requests to correct the record. Accordingly, I will place a copy of this letter in the civil penalty file to document the following:

NTC #120037 was not properly cited in the Previous Violations section of the Forest Practices Violation and Civil Penalty Assessment. NTC #120037 represents a deviation that is not similar to the deviation that underlies Civil Penalty #12/C/YHG: it involves inadequate buffering of occupied marbled murrelet habitat, not activities within RMZs.

#### **Request for Assistance in a Special Cooperative Process**

I am referring your request for assistance in a "special cooperative process" to Deputy Supervisor for Forest Practices & Federal Relations, Aaron Everett and Forest Practices Division Manager, Chris Hanlon-Meyer. I commend State Uplands for the program changes that have been implemented to reduce the likelihood of Forest Practices violations, and I support the engagement of the Forest Practices Program to assist State Uplands in evaluating these changes and recommending further improvements. That said, the text of your request prompts three comments.

First, throughout any such engagement State Uplands must remain solely responsible for preparing its FPA/Ns and carrying out its forest practices. The Forest Practices Program cannot in any way take on responsibility for State Uplands' FPA/Ns or operational outcomes.

Second, the Forest Practices Program must apply the same standards to determine whether any violation or deviation that State Uplands may commit warrants a civil penalty as the program would for any other landowner. Certainly, State Uplands' efforts to reduce violations would be taken into account when determining appropriate enforcement action, but there can be no guarantee that a civil penalty will not result if warranted by a violation or deviation.

Finally, the extent to which the Forest Practices Program is able to engage will undoubtedly be tempered by available resources. The Forest Practices budget, which is almost entirely sourced from the State General Fund, is under great stress as the state works its ways out of the recent and prolonged economic downturn. Resources available to undertake work that is beyond basic requirements are quite limited.

Kyle Blum, Deputy Supervisor  
November 18, 2013  
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**Right to Appeal, Payment**

Per WAC 222-46-060, you may appeal my decision to the Pollution Control Hearings Board (PCHB) within 30 days of receipt of this decision. Additional information, including sample documents, can be obtained from the Environmental and Land Use Hearings Office website at [www.eho.wa.gov](http://www.eho.wa.gov).

**For Civil Penalty #12/V/THR.--**If you choose not to appeal to the PCHB, the \$16,000 penalty must be remitted to:

Department of Natural Resources  
Northeast Region  
225 Silke Road S  
PO Box 190  
Colville, WA 99114-0190

**For Civil Penalty #12/C/YHG.--**If you choose not to appeal to the PCHB, the \$10,000 penalty must be remitted to:

Department of Natural Resources  
Pacific Cascade Region  
601 Bond Road  
PO Box 280  
Castle Rock, WA 98611-0280

Payment is due within 30 days of receipt of this decision. Please include with your remittance the civil penalty number indicated above.

cc: Peter Goldmark, Commissioner of Public Lands  
Aaron Everett, Deputy Supervisor for Forest Practices & Federal Relations  
Chris Hanlon-Meyer, Forest Practices Division Manager  
Loren Torgerson, Northeast Region Manager  
Eric Wisch, Pacific Cascade Region Manager



September 14, 2012

**To:** Mark Ostwald, United States Fish and Wildlife Service

**From:**  Clay Sprague, DNR HCP Implementation Manager

**Subject:** Alder Ego Timber Sale

Please find attached the final report for the Alder Ego timber sale and HCP deviation that occurred. The report contains the background, summarizes the presales processes, deviations from HCP Northern Spotted Owl conservation strategy, reasons for those deviations, and mitigation and corrective actions the department has taken and will take as a result.

Based on USF&WS previous approval of the mitigation plan we immediately conclude the remainder of the sale and implemented the mitigation measures outlined in the report.



## Alderego NSO Mitigation Plan

**Background-** The Alderego Variable Retention Harvest (VRH) is a timber harvest located in a designated Northern Spotted Owl (NSO) Dispersal Management Area within the Elbe Hills Spotted Owl Management Unit (SOMU). The activity is located in classified non-habitat designed to convert these stands from hardwood dominated to conifer dominated. This activity is located in southern Pierce County in Sections 33 and 34 T16N, R05E, W.M. (in the Elbe Hills State Forest). The Elbe Hills SOMU is currently below the 50% dispersal habitat threshold.

Approximately 0.14 acres of a 0.26 acre area of movement habitat between an existing road (8332 Road) and the harvest unit were planned for yarding corridors to facilitate cable yarding in Unit #3, thereby reducing ecological impacts from additional road construction, ground scarification and stream crossings related to ground based harvest of the unit. Approval for this activity was obtained per memo dated January 11, 2012 (attached). The 0.26 acre area of movement habitat was identified from the harvest unit by blue special management unit boundary tags. The approved yarding corridors were required to be marked and approved by the Contract Administrator (CA) prior to harvest of the unit. Reconstruction of the 8332 Road is required under the timber sale contract, including removal of trees within the road clearing limits. The boundary marking and right of way cutting area was covered in a Road Plan of operations meeting held with the CA and Purchaser representative.

**Existing Situation-** During the right of way cutting, a situation developed, whereby the 0.26 acre area of movement habitat between the 8332 Road and the blue special management unit boundary was cut. This existing situation developed as a result of the right of way cutters unintentionally using the blue special management unit boundary tags as the cutting boundary instead of the 5 foot clearing limits stated in the Road Plan and discussed at the Plan of Operations meeting. This area was the first area of the right of way cutting boundary where it transitioned from marked with right of way tags to unmarked clearing limits defined in the Road Plan.

**Deviations from HCP-** Harvest in classified NSO habitat is not permitted within SOMUs below 50% threshold of movement habitat or better. Cutting of the entire 0.26 acre movement habitat area was not approved.

**Deviations from Timber Sales Contract-** Cutting between the 5 foot clearing limits and the blue special management unit boundary tags (the 0.26 acre area) was not within the harvest unit described in the contract, therefore constitutes unauthorized activity and violation of the contract.

### **Mitigation by Purchaser**

#### Communication:

1. A commitment to immediately obtain clarification with the C.A. before proceeding with operations, when cutting boundaries that are unclear or when contractual questions arise.
2. A harvest plan of operations will be held covering marking of cutting boundaries and mitigation requirements prior to harvest in the units.

1:1 Replacement of NSO habitat acreage cut:

1. Replacement of 0.26 acres cut movement habitat with 0.26 acres contiguous forest stand that will be removed from harvest.. This area is marked by yellow leave tree area tags along the southeastern corner of Unit #3 with all trees marked with blue paint within this area. The purchaser will not be compensated for this 0.26 acres removed from the sale area. (See attached mitigation plan).

Structure creation:

1. Retention of 5 logs from those cut in the 0.26 acre movement habitat area. Each of these 5 logs shall be a minimum of 20 inches diameter by 32 feet in length.
2. Placement of the 5 logs scattered within the 1:1 replacement area to serve as down woody debris and further improve habitat characteristics of the replacement area.
3. Creation of three snags within the 1:1 replacement area. Three Douglas fir trees marked with a red band of paint shall be girdled by removing bark where painted red to expose the cambium layer.

Additional Requirements:

1. All logs felled within the 0.26 acre movement habitat area shall be scaled.
2. Purchaser shall be billed for these logs, except the 5 logs placed within the 1:1 replacement area, according to contract payment rate stated in clause G-101. Payment shall be made within 14 days of invoice due date. These logs may be removed following written approval by the CA.

**Mitigation by DNR**

Communication:

1. A plan of operations will be held covering harvest boundary marking and mitigation requirements. Areas of transition in boundary markings will be emphasized.

Additional and Future Requirements:

1. DNR commits to incorporating a clearer method of marking all individual trees or utilize right of way boundary tags where right of way cutting will occur through NSO habitat or other sensitive areas instead of relying on clearing limits distance definition.

## MEMORANDUM

**TO:** Clay Sprague

**FROM:** Alan Mainwaring, Region Biologist

**SUBJECT:** Alderego NSO Mitigation Plan

**DATE:** July 23, 2012

**Situation-** Approximately 0.26 acres of Northern Spotted Owl (NSO) movement habitat adjacent to the 8332 road was mistakenly cut. The Elbe Hills Spotted Owl Management Unit is currently under the 50% habitat threshold target.

**Mitigation Prescription-** To mitigate for the loss of habitat function an area of mature conifer equal in acreage to what was cut has been designated to be excluded from harvest. The area cut was a mixed second-growth conifer/hardwood stand. The site could be characterized as where the forest transitioned from conifer dominated to hardwood dominated. Unfortunately the removal occurred next to the 8332 road which is already a linear gap. This site would have provided somewhat of a buffer between the harvest unit and the road. Granted, a landing and yarding corridors were approved for this location thus minimizing the buffer effect.

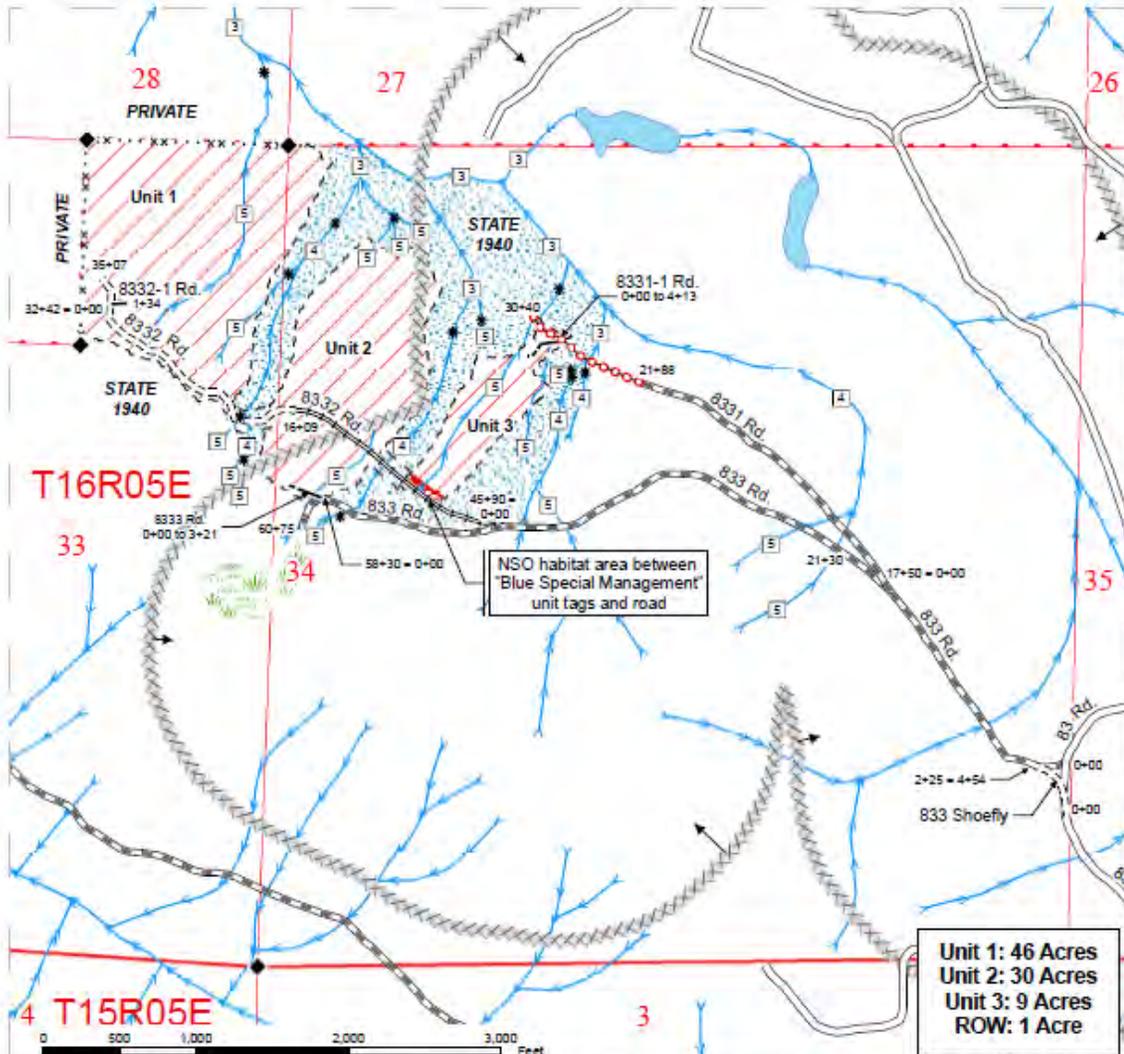
The designated replacement area is in the current harvest unit and is classified as non-habitat. Even though the designation is non-habitat I believe the site is of equal or greater habitat value for NSO given the percentage of conifer is higher and has a component of shade tolerant conifer understory. To ensure the replacement area is of higher quality than what was cut, 5 substantial Douglas-fir logs (minimum of 20 inch diameter x 32 feet long) will be placed within the site and 3 Douglas-fir snags (greater than 20 inch diameter) will be created to provide dead wood structure not currently present.

Fortunately we are mitigating for a very small area (~1/4 acre). By providing a 1:1 acreage substitution and augmenting the site with coarse woody debris and snags the area lost will be replaced with one of equal or higher NSO habitat. The implementation of this mitigation plan will adequately compensate the unintentional removal of 0.26 acres of NSO movement habitat.

# TIMBER SALE MAP

**SALE NAME:** ALDEREGO VRH  
**AGREEMENT#:** 30-086174  
**TOWNSHIP(S):** T16R05E  
**TRUST(S):** Common School and Indemnity(3), University Repayment(41)

**REGION:** South Puget Sound Region  
**COUNTY(S):** PIERCE  
**ELEVATION RGE:** 1809-2468 ft.



|  |                            |                             |
|--|----------------------------|-----------------------------|
| Timber Sale Area                           | Optional Construction      | NSO Habitat Area            |
| White Timber Sale Boundary Tags            | Streams                    | Forested Wetland            |
| Private Property marked with Pink Flagging | Water Type                 | RMZ/WMZ Area                |
| Orange Right of Way Tags                   | Water Type Break           | Open Water                  |
| Existing Roads                             | MM Timing Restriction Zone | DNR Managed Lands           |
| Required Construction                      | Survey Corners             | Public Land Survey Sections |
| Required Reconstruction                    | Gate: Master 786           |                             |
| Required Pre-Haul Maintenance              |                            |                             |
| Required Abandonment                       |                            |                             |

Prepared By: Iroa490  
cdun490

Creation Date: 12/8/2011

Modification Date: 2/27/2012

MEMORANDUM January 11, 2012

**To:** Clay Sprague, HCP Implementation Assistant Division Manager  
**From:** Alan Mainwaring, South Puget Sound Region Wildlife Biologist  
**Subject:** ALDER EGO VRH- CONSELTATION ON YARDING CORRIDORS THROUGH NSO MOVEMENT HABITAT

**Issue:** The proposed Alder Ego timber sale is a 3 unit, approximately 86 acre Variable Retention Harvest (VRH) in the Elbe Hills State Forest located approximately 5 miles north of the town of Elbe (southern Pierce County). The sale is located in the Elbe Hills Spotted Owl Management Unit (SOMU) which is currently at 36.87% of habitat objective (NSO *movement habitat* or better). The sale units are located in 65-70 year old hardwood dominated areas of mapped *non-habitat*.

South Puget Sound Region requests approval for the removal of *movement plus habitat* to efficiently manage areas of *non-habitat*.

**Yarding Corridors:** A .14 acre jog in *movement plus habitat* screens out the uphill cable yarding of a proposed VRH harvest unit in *non-habitat*. The timber type change at this location is indistinguishable and follows the FRIS boundary which is under slung below an existing road.

Ground base and downhill yarding could be utilized as an alternative; however, the ecological impacts would be a net loss with extra road construction and ground scarification the result. Three yarding corridors and associated landings are requested through the *movement plus habitat*.

**Background:** PR 14-004-120 Northern Spotted Owl Management (Westside) does not provide a clear provision for access through identified NSO habitat to access areas of *non-habitat*. Walking through the procedures flow chart for SOMU's associated with Dispersal Management Areas leads to:

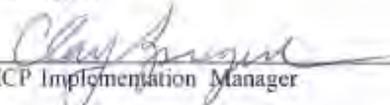
**Maintain at least current habitat except:**

- with LMD approval, may allow taking below habitat
- Activities restricted 3/1-8/31 within .7 miles of Status 1 and 2 site centers

**Discussion:** The proposed Alder Ego VRH in *non-habitat* is a NSO habitat enhancement activity as the harvest will accelerate the rate in which *movement habitat* parameters are achieved by converting a hardwood dominated stand to a conifer dominated stand. Permitting the reduction of approximately .14 acre of identified *movement plus habitat* to enable uphill yarding will lower the overall ecological impacts of this harvest and reduce costs. The Alder Ego VRH timber sale is consistent with the goals and objectives of DNR's HCP and the South Puget Planning Units Forest Land Plan's NSO conservation objectives.

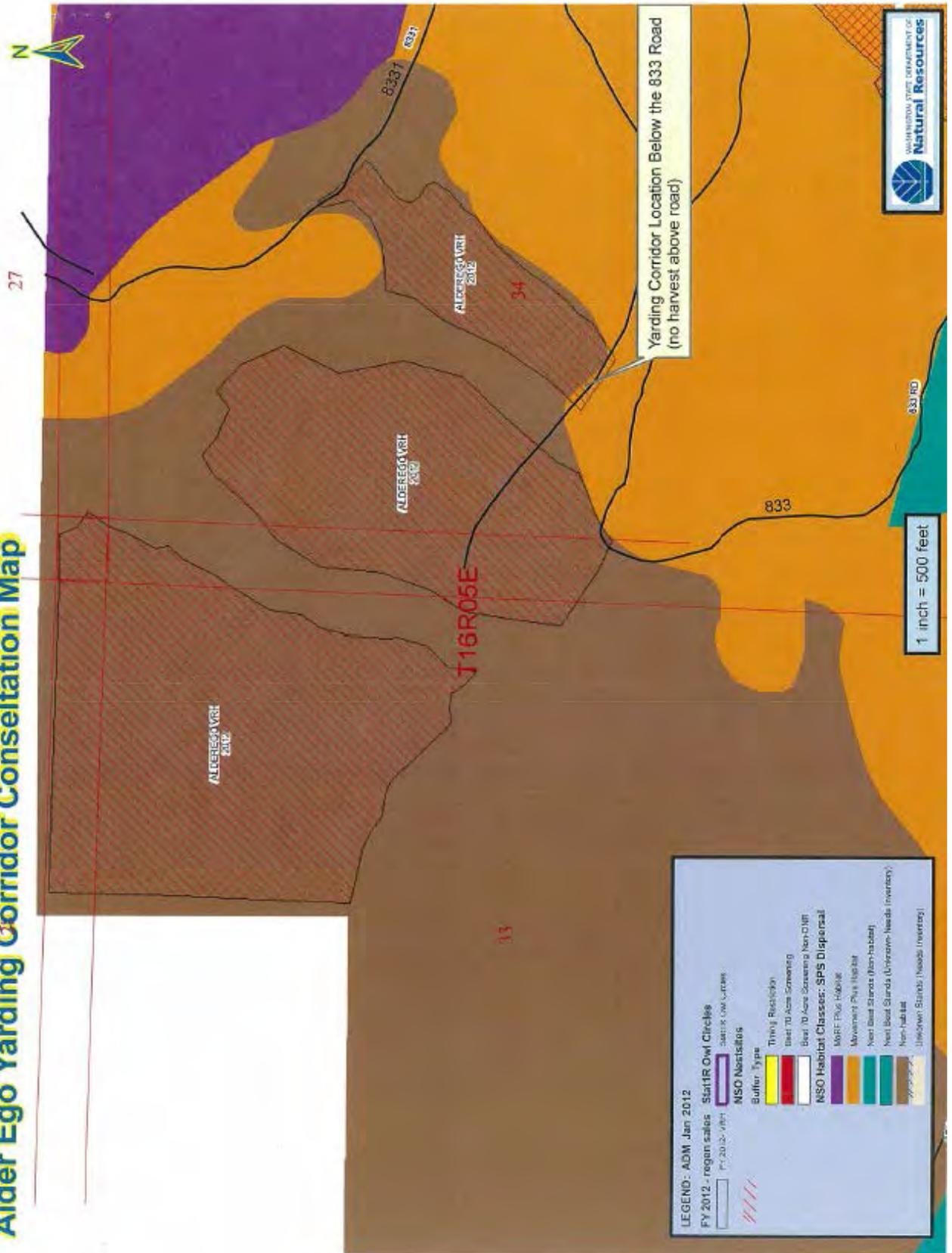
Please contact me if you have any questions or need any additional information. If you concur with this proposal, please sign below.

Thank you.

  
HCP Implementation Manager

1/11/12  
Date

# Alder Ego Yarding Corridor Conseltation Map



**Nov. 15, 2012**

**TO:** Clay Sprague, HCP Implementation Manager

**THROUGH:** Drew Rosanbalm; State Lands Assistant Manager - Olympic Region

**FROM:** Scott Horton, Wildlife Biologist – Olympic Region

**SUBJECT:** Harvest of marbled murrelet reclassified habitat to alleviate liability from blowdown impacts to adjoining residential property

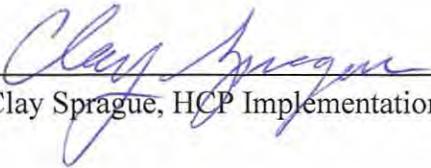
Background: The area of interest is on the northern Olympic Peninsula near Sequim, Clallam County, in Section 14 T29N R03W (Figure 1). Surveyed, unoccupied reclassified marbled murrelet habitat borders a residential property. This habitat is deferred from harvest under the Interim Murrelet Strategy because it is within ½-mile of the occupied site to the northeast (Figure 1). The Interim Strategy also requires that at least 50% of reclassified habitat per WAU be deferred from harvest until the adoption of a Long-Term Strategy. The Sequim Bay WAU which contains the area of interest has 77.2% of reclassified habitat in a deferral status. Following harvest of Unit 3 of Palo Alto Sub in 2008, blowdown from this habitat has been affecting the safety and property of the neighbors and they have contacted DNR with their concerns. Based on the characteristics of this site, the first option to alleviate current and future liability appears to be that DNR propose and develop a logical timber harvest unit within this habitat (see Figure 2). This memo addresses murrelet conservation issues that bear on such a proposal.

On-site observations: I visited the site on June 27, 2012 to observe stand characteristics relative to features of murrelet habitat and to conduct a detailed examination of the area proposed for harvest. FRIS data summarize characteristics of the habitat area: Douglas-fir/western redcedar with an estimated origin date of 1937; 13.8" quadratic mean diameter of live stems  $\geq 4$ "; 34 stems/ac.  $\geq 20$ " dbh; 130' height of the 40 tallest trees/ac.; and "unlikely" to be an old-growth stand. My observations were consistent with those estimates, the stand is rather typical of simple-structured second-growth in the Olympic Peninsula rainshadow with Douglas-fir as canopy dominants and codominant western redcedar with some western hemlock and bigleaf maple (see Figure 3). I searched the entire area of interest for trees that supported platform structures that are associated with murrelet habitat but found none. This is not unexpected as these structures are relatively rare in second-growth Douglas-fir and western redcedar. Figure 4 provides a view into an exemplary portion of the canopy, illustrating the small uniform branching structure typical of second-growth Douglas-fir that developed in an environment of competitive exclusion.

An approximately one-acre patch of near-complete blowdown has developed at the western edge of the habitat, approaching very near the property line (see Figures 2 and 3). Blowdown within the stand interior is also fairly common and appears to be exacerbated by root-rot which is endemic in second-growth Douglas-fir stands in this area.

Conclusion: I conclude the deferred reclassified habitat proposed for harvest is of low conservation value because it is structurally simple, without platform structures that could support a murrelet nest and because of its proximity to residential areas that promote a diverse, abundant community of potential nest predators. The harvest proposal is limited to that portion of the reclassified habitat that creates the liability, approximately 10 acres. If permitted that harvest would still retain 76.7% of reclassified habitat in the Sequim Bay WAU in a deferral status. Given the status of reclassified habitat in the WAU and the apparently low conservation value of the area of interest, I recommend this harvest proposal as the best solution to resolve liability issues with the neighbors and retain conservation options for a long-term murrelet strategy.

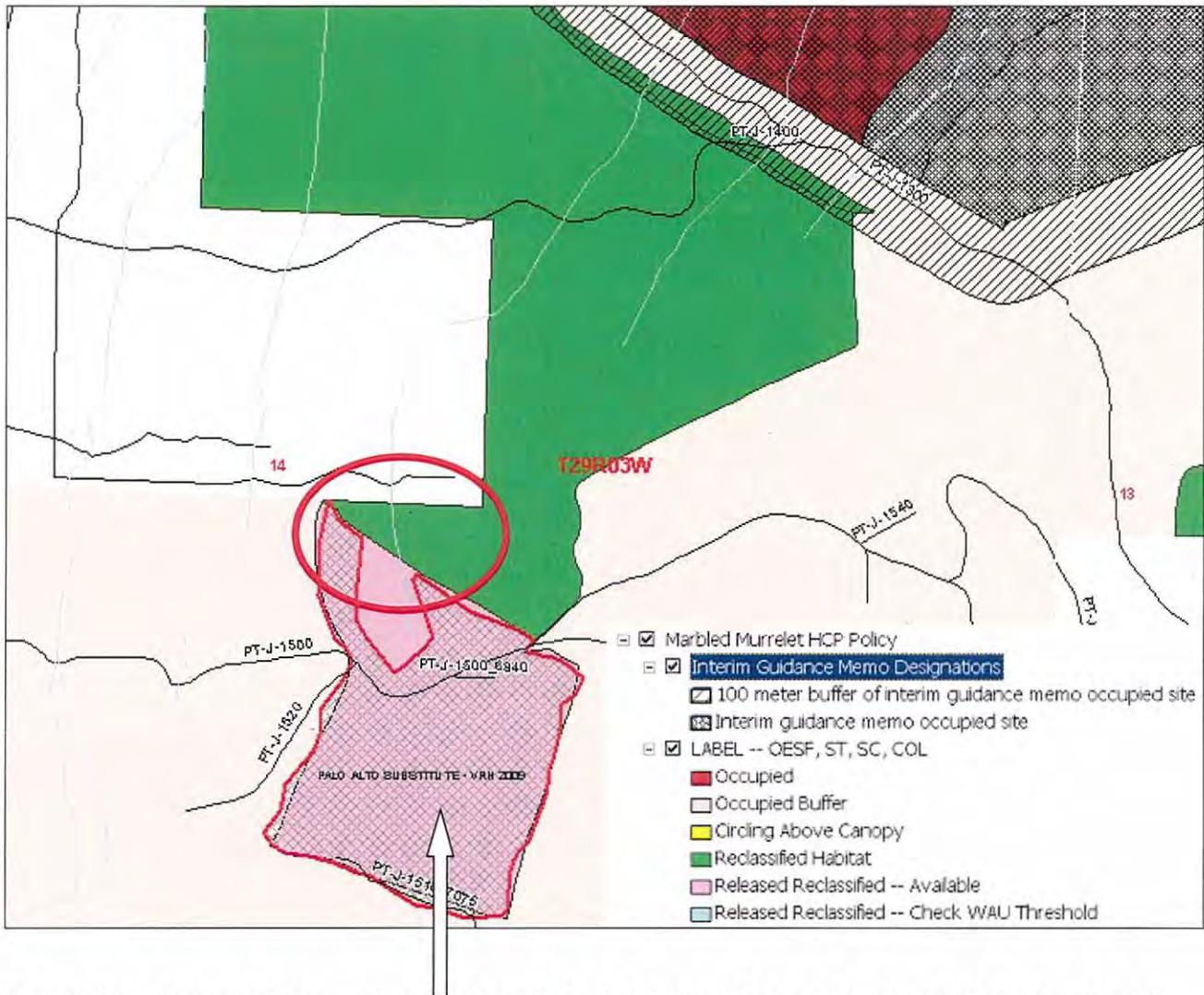
If you concur that this proposal is consistent with HCP Conservation Strategies and other Department Procedures and that DNR may proceed, please sign below.

  
\_\_\_\_\_  
Clay Sprague, HCP Implementation Manager

11/15/12  
Date

Note: I consulted with USFWS by email on this proposal and their approval via email is attached below.

Figure 1. The area of interest and its surroundings, showing DNR-managed lands (shaded) and land classifications under DNR's Interim Marbled Murrelet Strategy (see legend), T29N R03W Sections 13 and 14, Clallam Co., WA. The area of interest is within the red oval.



Sale unit to the south is not occupied site. Mistakenly marked on the map, it's the harvested unit from 2008.

Figure 2. Aerial photograph (summer 2011) focused on the area of interest. Reclassified, deferred murrelet habitat is outlined in green, Palo Alto Sub U3 is outlined in red, the harvest proposal is circumscribed with a dotted blue line. Note the area of blowdown visible in the lower left corner of the harvest proposal. The white-roofed building in the sun measures approximately 130' from the property line.

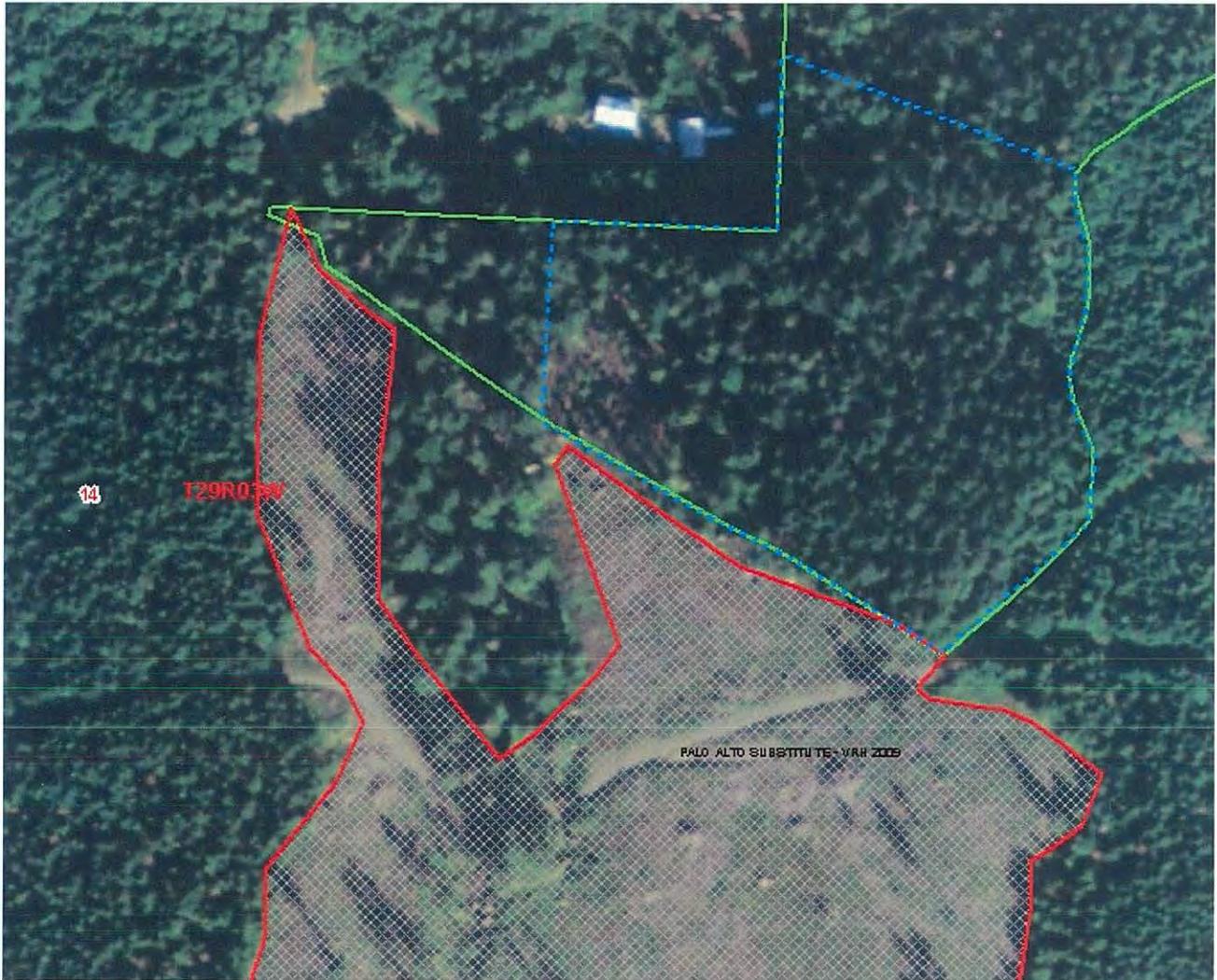


Figure 3. View of the southern edge of the deferred reclassified murrelet habitat proposed for harvest. A white-colored building on the residential property that is being impacted by blowdown from this habitat is barely visible through the trees in the lower left.



Figure 4. View into an exemplary portion of the canopy within the deferred, reclassified murrelet habitat proposed for harvest. Note the simple canopy structure in the second-growth Douglas-fir that dominate this stand.



## SPRAGUE, CLAY (DNR)

---

**From:** Mark\_Ostwald@fws.gov  
**Sent:** Wednesday, November 14, 2012 4:31 PM  
**To:** SPRAGUE, CLAY (DNR)  
**Subject:** Re: Blowdown Hazard and MM habitat  
**Attachments:** Westwood habitat consultation 11.13.12.doc

Hi Clay,

Thanks for sending Scott's write-up. If the sale has been surveyed for MAMU and none found, if there is surplus habitat by WAU that is available for removal, and there are no suitable platforms for MAMU, it is my view that the removal of those 10 acres would be acceptable per the HCP. I can support the proposal.

Mark Ostwald  
U.S. Fish & Wildlife Service  
(360) 753-9564

"SPRAGUE, CLAY \ (DNR)" <[CLAY.SPRAGUE@dnr.wa.gov](mailto:CLAY.SPRAGUE@dnr.wa.gov)>

"SPRAGUE, CLAY \ (DNR)"  
<[CLAY.SPRAGUE@dnr.wa.gov](mailto:CLAY.SPRAGUE@dnr.wa.gov)>

To<[Mark\\_Ostwald@fws.gov](mailto:Mark_Ostwald@fws.gov)>

11/13/2012 12:20 PM

cc

SubjectBlowdown Hazard and MM habitat

Hi Mark, attached is a request from our Olympic region to remove some surveyed, unoccupied MM habitat that represents a blowdown hazard to an adjoining homeowner. Scott Horton has done a write-up attached. I was out on-site last summer and met with the homeowner and looked at the stand. Please take a read and let me know if you can support this proposal. Thanks Mark.

### **Clay Sprague**

HCP & Scientific Consultation Section, Assistant Division Manager  
Forest Resources and Conservation Division  
Washington State Department of Natural Resources  
1111 Washington St SE  
PO Box 47016  
Olympia, WA 98504-7016  
360.902.1788 (office)  
360.584.3672 (cell)  
[clay.sprague@dnr.wa.gov](mailto:clay.sprague@dnr.wa.gov)  
[www.dnr.wa.gov](http://www.dnr.wa.gov)  
(See attached file: *Westwood habitat consultation 11.13.12.doc*)

November 27, 2012

TO: Clay Sprague, HCP Implementation Manager

THROUGH: Laurie Bergvall, Assistant Manager, Northwest Region

FROM: Lisa Egtvedt, Wildlife Biologist, Northwest Region

SUBJECT: Proposed Implementation of the Draft Revised Cave Procedure for the Stilly Headwaters VDT & VRH Timber Sale

This letter and the accompanying map (below) describe a “complex” of small caves that is located within a proposed timber sale (Stilly Headwaters VDT & VRH), and our planned protection measures following the guidance of the draft revised cave procedure (Feb 2010) which lays out a process for evaluating caves to determine their importance or value as wildlife habitat. Since that procedure is still in draft form, but has been agreed to as consistent with our HCP by USFWS (see attached draft procedure and email), I am consulting with you to assure that the intent is met and the protection measures are adequate.

The proposed Stilly Headwaters VDT & VRH timber sale is a three-unit variable density thinning (VDT) and variable retention harvest (VRH) located on the southeast flanks of North Mountain, in Sections 26, 34, & 35 of Township 33 North, Range 09 East. During presales work here in summer/fall of 2012, DNR foresters Chris Brandon and Doug Cochran observed two potential caves within the only VRH unit (Unit #2). On September 17, I was able to review and characterize one cave in this vicinity, and determined that the other feature is *not* a cave, utilizing the criteria outlined in the draft revised procedure.

In the southern part of the unit, near the southeastern boundary, there is a rock outcrop located just above the existing North Mountain Mainline (NM-ML) road. This outcrop contains two openings, one of which leads to a single subterranean chamber, and the other which leads to three connected subterranean chambers.

The single chamber descends steeply into the hillside and has a very low ceiling, making it accessible to small- to medium-sized terrestrial mammals (up to bobcat size), but not likely to be used by bats. There is a partial tree root within the chamber, and wood debris on the chamber floor, but no water or notable air flow. The only biota/sign observed within this chamber were spider webs. Because it extends into the hillside, there is a minimal twilight zone in the back portion of the chamber; however, because the chamber is relatively short (only about four feet long), there is no fully dark zone. The total volume for this cave is estimated at 36 ft<sup>3</sup>.

The opening with three chambers exhibits the following characteristics: One chamber is long (relatively speaking; approximately five feet long), narrow (approximately one foot wide), and relatively “protected”, as it has a restricted entrance and goes deeper into the hillside. It is structurally simple, with a minimal twilight zone in the back portion of the chamber. Biota observed in this chamber included three geometrid moths and some “shiny” spiders (unknown species). The total volume for this cave is estimated at 32 ft<sup>3</sup>. The middle/main chamber has openings at two “ends”. Some air movement was detected, but the temperature inside this chamber was similar to the ambient (external air) temperature. No biota/sign was observed within this chamber, despite the fact that it seems to be fairly accessible to small- to medium-sized terrestrial mammals. The total volume for this cave is estimated at 96 cu ft<sup>3</sup>. The third chamber is more like a hole in the ground, with entrance/daylight illumination only, and wood and plant debris that appears to have fallen into it. No biota/sign was observed within this chamber, even

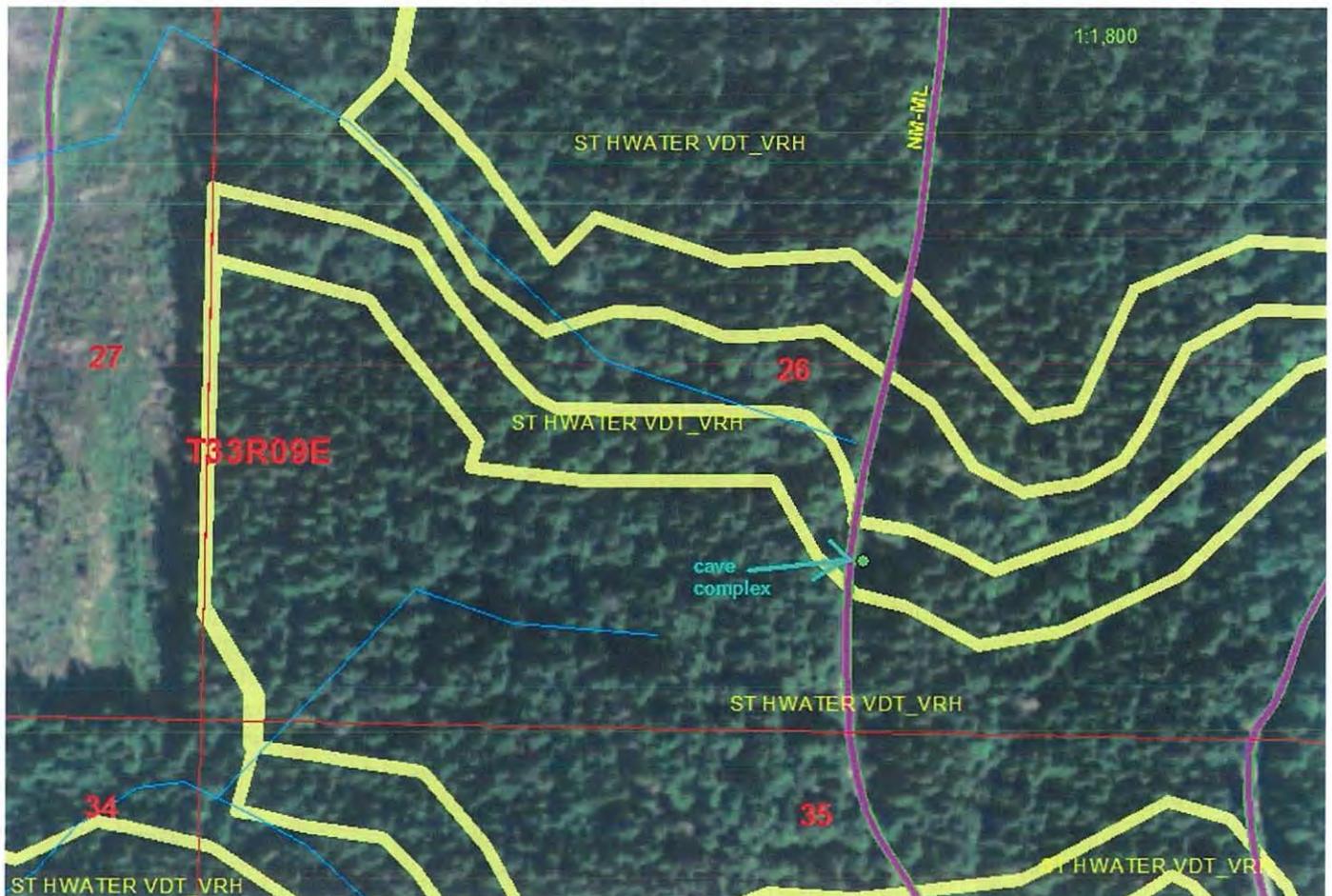
though it seems to provide some protection from inclement weather conditions and appears to be fairly accessible. The total volume for this cave is estimated at 14 cu ft3.

All of these chambers type as LOW-value caves under the criteria of the revised procedure. Although a 30-foot radius no-harvest buffer will be established around the entrances and “passages” of this small cave complex, the existing road is located within approximately 15-20 feet of the entrances. This road is not gated, and receives a moderate amount of use, including recreational use, and will continue to do so. The rock/cave feature is not particularly visible or visually interesting, so it probably does not receive any human disturbance as a result of the road location. Because it is uphill from the road, it will not receive any disturbance to the soil or vegetation within the buffer due to the harvest activity, other than the activity that will occur along the road (including timber hauling).

If you concur with this proposal, please sign below.

Clay Sprague  
Clay Sprague, HCP Implementation Manager

11/28/12  
Date



## Protecting Caves

**Cancels:** PR 14-004-180, dated August 1999

**Date:** February 2010

**Application:** All west-side forested ecosystems managed under the Habitat Conservation Plan, including the Olympic Experimental State Forest Planning Unit.

### Discussion

Caves provide habitat for a number of species of plants and animals, including several species of bats and several rare invertebrates and natural communities. Bats such as Townsend's big-eared bat, long-eared and long-legged myotis, fringed myotis, the Larch Mountain salamander, and several rare snails and slugs may make significant use of caves. Few caves are known on DNR-managed lands. While more are likely to be found during management activities, caves will be rare in most HCP planning units. This procedure is intended to protect the physical integrity of the cave, maintain structure, airflow, and current sunlight regime in order to protect the habitat value of caves.

This Procedure clarifies the biology, assessment, and management of caves as it relates to our HCP commitments. Its goal is to protect known resources. Research may find new cave resources in need of protection.

This strategy for cave protection will protect the habitat value of the cave environment by assessing the biological value of newly-discovered and previously known caves, recording the location of all caves (GIS), and minimizing the impacts of management activities near caves. The following conservation objectives for caves are outline in the HCP (page IV. 154):

1. Maintain the microclimate at the cave entrance;
2. Maintain the physical integrity of cave passages; and
3. Minimize human disturbance to bat hibernacula and maternity colonies.

The habitat value of a cave is based on its biological and physical characteristics. Biological characteristics, such as use by bats or rare invertebrates, are often difficult to assess. Significant use by wildlife is rarely distributed uniformly across years and seasons, so accurate measurement requires several visits over at least two years. Many significant species are hard to identify. On the other hand, physical characteristics of a cave can usually be assessed during a single visit and give an estimate of the biological value. This procedure provides guidance for the protection of the biological value of a cave by maintaining its physical characteristics. Significant characteristics include the microclimate at the cave entrance and within the cave, the physical integrity of cave passages and the level of human disturbance.

In general, a larger cave will have greater habitat value than a smaller cave, but in some cases, a small cave with the proper structure and location will be more significant than a larger cave. Habitat value is assigned to one of three categories; high, medium, or low, and is assessed as follows.

**Physical Characteristics**

For the purposes of this Procedure, a cave is defined as an enclosed space, generally with an opening smaller than its interior dimensions. Cliff overhangs and simple chasms in rock are not caves. Cave volume is more important than any single dimension measure. Volume is hard to measure precisely, but estimates of length, width, and height are adequate. Complexity of a cave is important; a cave with more than one passage or chamber has greater value than a simple structure of equal volume. Thermal traps are domes in the ceiling of a cave that trap warm air, creating habitat diversity. Volume of a thermal trap can be measured by estimating the volume of space that is above the threshold of the chamber. (The threshold is the low point of a chamber that would prevent warm air from draining out of the cave or up the cave to a higher level.) If a cave cannot be explored, air flow from one or more of the cave entrances suggests an elevation difference and a diversity of interior habitats.

| Habitat Value | Primary Factor           | Modifying Factors         |                        |   |                           |
|---------------|--------------------------|---------------------------|------------------------|---|---------------------------|
|               | Volume                   | Complexity                | Thermal trap volume    | Air flow#   | Presence of water*        |
| High value    | 1500 ft <sup>3</sup>     | >4 passages or chambers   | >200 ft <sup>3</sup>   | Significant airflow, sufficient to move paper or dry leaves | Flowing or standing water |
| Medium value  | 200-1500 ft <sup>3</sup> | 2-4 passages or chambers  | 50-200 ft <sup>3</sup> | Minor air flow, barely noticeable                           |                           |
| Low value     | 20-200 ft <sup>3</sup>   | Single passage or chamber | <50 ft <sup>3</sup>    | No air flow   |                           |

#Air flow will vary seasonally. Most caves have strongest airflow in winter or summer.

\*Presence of water is important in an otherwise dry landscape, but not where surface water is nearby.

Collection of data on volume, complexity, and thermal traps requires seeing into the cave. In most cases, a surveyor can look into the cave entrance with a flashlight and see enough to estimate these factors. Most caves within the area of the HCP in Washington are relatively stable, small, and structurally simple. Dangers encountered in gathering information necessary to analyze the habitat value of a cave are different than those encountered in everyday field work but not significantly greater if caution is exercised.

*The most significant caution is not to exceed your comfort level.* When exploring a cave, consider the following safety concerns. If you don't want to go into a cave, don't do so. If you encounter a condition that doesn't appear safe, leave the cave. Ensure positive communication with someone either on site or at the Region Headquarters upon entering and exiting the cave. Initiate your Region's field check-in/check-out procedures. Each surveyor should carry at least two sources of light. While caves within this area are small, many maintain a climate different from the outside. They will be cool in the summer and warm in the winter, so remember to dress appropriately.

Two significant dangers may be present in any cave, small or large. Overhead rock is not always stable. Surveyors should watch for unstable situations and avoid them. Holes in the floor are not always easily visible. Watch the floor carefully and do not walk through water unless you have probed it thoroughly for the presence of holes.

These guidelines apply to the small caves most often encountered in western Washington. Exploring larger caves, including some talus caves, lava tubes in the southern Cascades, and the limestone caves found occasionally in the Cascades require training and knowledge beyond

the needs of this procedure. The habitat value of these caves can usually be estimated from the cave entrance.

**Biological Characteristics**

While biological significance cannot usually be assessed during a single visit, signs of biological use may be visible during any single visit. Single bats may be found in any cave at any time of year. While locally significant, this type of roost site is rarely a limiting resource for bats. Presence of more than a few bats is significant, especially during the winter, or if young are present during the summer. Signs of heavy bat use such as urine stains on the ceiling or walls of a cave or piles of guano will be hard to find but if seen, indicate significant use.

Many caves will contain nests or guano of small mammals such as mice, pika, and porcupines, but caves are probably not a limiting resource for these animals. Signs of use by larger animals such as cougar or bear add interest to a survey and are more significant.

Some research has been conducted on other significant cave organisms including plants, invertebrates, algae, and bacteria. This information is not yet systematic enough to apply across the range of caves found in the area of the HCP.

| Habitat Value | Bat use#   | Significant use by other vertebrates | Presence of significant plant species, plant communities, invertebrates, or other organisms* |
|---------------|--|--------------------------------------|--|
| High value    | >5 bats or ≥ 1 ESA listed/State SOC** bat seen during a visit or other sign of heavy use |                                      | Known presence of significant plants, communities, invertebrates, or other organisms         |
| Medium value  | 1-5 bats seen or sign of bat use   | Signs of use by large mammals        |  |
| Low value     | No bats or sign of use   | Signs of use by small mammals        |  |

\*Information on caves important to plants, plant communities, invertebrates, or other organisms will be provided to the regions as it becomes available to the Natural Heritage Program.

\*\*SOC refers to WDFW's Species of Concern List (includes State Sensitive, Candidate, Threatened and Endangered).

Bats are especially vulnerable to disturbance during the late spring and early summer maternity period (May-July) and during winter hibernation (October-March). If groups of bats are found during maternity times or even single bats are found during hibernation, surveyors should make a quick estimate of numbers and leave the area to avoid excessive disturbance.

**Integration of Physical and Biological Characteristics**

Biological characteristics take precedence where measurable. A cave of 200 cubic feet where 10 bats are seen is of high value. Due to the difficulty of establishing biological significance, assignment of habitat value will generally be based on physical characteristics.

Among physical characteristics, cave volume takes precedence unless modifying factors raise the value. For instance, a cave of 1000 cubic feet with two passages and a thermal trap of fifty cubic feet is of medium value while a cave of 1000 cubic feet with five passages and a thermal trap of 250 cubic feet is of high value.

While this process will apply with relative ease to most caves, the integration of these factors illustrates the complexity of assessing the habitat value of a cave.

If additional field assistance is needed to determine the significance of a cave in question, please contact Ecosystem Services Section.

### **Action**

1. Field locate previously known or recorded caves within 0.25 mile of a management unit/activity. Recorded caves are located on WDFW's Priority Habitats and Species (PHS) GIS layer.
2. Assess biological value of each cave. If entry is necessary and possible, follow the precautions listed above.
3. Determine if proposed management activity occurs within 0.25 mile of a cave. If so, take the following actions.

#### **If a cave is of high value**

- a. Establish a minimum 250 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 100 foot buffer on each side of cave passages. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 0.25 mile of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.
- d. Do not construct roads within 300 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

#### **If a cave is of medium value**

- a. Establish a minimum 125 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 50 foot buffer on each side of the cave passage where surface activity may disturb a cave passage. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 250 feet of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.
- d. Do not construct roads within 150 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

#### **If a cave is of low value**

- a. Establish a minimum 30 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 30 foot buffer on each side of the cave passage where surface activity may disturb a cave passage. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 150 feet of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.

- d. Do not construct roads within 150 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

Obtain region manager approval for all road construction that the region determines to be necessary and that cannot be routed around a cave or cave passage in a practical manner. Inform Ecosystem Services Section if this variance is necessary.

## SPRAGUE, CLAY (DNR)

---

**From:** Mark\_Ostwald@fws.gov  
**Sent:** Friday, February 06, 2009 4:05 PM  
**To:** ESTEP, ALLEN (DNR)  
**Cc:** MIKETA, TAMARA (DNR)  
**Subject:** RE: FW: cave procedure

Hi Allen,  
Sorry it took so long to get back to you. I agree that this procedure is consistent with the HCP. Thanks in advance for adding the information on T & E species.

Mark Ostwald  
U.S. Fish & Wildlife Service  
(360) 753-9564

"ESTEP, ALLEN  
(DNR)"  
<ALLEN.ESTEP@dnr.  
wa.gov> To  
<Mark\_Ostwald@fws.gov>  
CC  
01/27/2009 12:47 "MIKETA, TAMARA (DNR)"  
PM <tamara.miketa@dnr.wa.gov>  
Subject  
RE: FW: cave procedure



November 15, 2012

TO: Mark Ostwald, USFWS  
FROM: Clay Sprague, DNR *Clay*  
SUBJECT: Dowan's Creek Road Mitigation Parcels

This memorandum reflects the joint agreement between the United States Fish and Wildlife Service USFWS and the Washington State Department of Natural Resources (DNR) that the parcels described below and reflected on the attachments will meet the requirements as described in the March 14, 2002 letter (attached) to FEMA from USFWS and DNR for mitigation for the Dowan's Creek Road project. This project involves the reroute of a Jefferson County Road on DNR managed land, through occupied Marbled Murrelet habitat. As laid out in the attached letter, USFWS and DNR have agreed on four parcels in the Dabob Bay Natural Area that will provide mitigation for the Dowan's Creek Road project.

Prior to moving forward with these parcels, we made another attempt to find lands on the west side of the Olympic Peninsula in September 2012. We investigated if there were parcels that would be available along the Clearwater River in Jefferson County. We determined that the parcels of highest interest had very young forest stands and would take many decades to become habitat. Thus we are proposing that the following parcels are eligible for purchase to satisfy the intent of the March 14, 2012 letter

Parcel #1

The Allen property (#701153024) is a 5 acre parcel next to a DNR managed Natural Resource Conservation area (see attached map). This parcel is characterized by scattered conifer, some with MM platform potential amongst big-leaf maple and other hardwoods.

Parcel #2

The Denz property (#701153019) is another 5 acre parcel next to the DNR managed Natural Resource Conservation area (see attached map). This parcel is also characterized by scattered conifer, some with MM platform potential amongst big-leaf maple and other hardwoods. However there are several larger, older Douglas-fir trees with platforms and a draw with large cedar that extends to parcel #3.

Parcel #3

The Smith property (#701153023) is another 5 acre parcel (see attached map). This parcel is also characterized by scattered conifer, some with MM platform potential amongst bigleaf maple and other hardwoods. However there is a long draw extending from parcel #2 with large cedar trees throughout.

It is our opinion that the acquisition of these three parcels satisfies the “out-of-kind” situation described in the March 14, 2012 letter. None of these parcels are currently suitable habitat, but have the capability to recruit into habitat in the future. However, they will immediately provide buffer habitat next to suitable habitat in the Dabob Bay Natural Area. These parcels could be developed for home sites if not purchased by the Department. All of these properties, as part of the natural area, would be managed permanently for older forest structure and consequently marbled murrelet habitat. All three would be acquired utilizing FEMA money provided to Jefferson County for mitigation.

Parcel #4 (optional)

The Gustafson property (#701283009), also within the Dabob Bay natural area, is a 5 acre waterfront property characterized by a few scattered conifer trees within a big-leaf maple stand. This property will be considered as a back-up property to the first three in the event we have additional money left over after their purchase.

All properties purchased will contain a deed restriction or other appropriate form of documentation indicating that these properties were acquired to be managed for MM habitat as mitigation for the Dowan’s Creek Road project.

If you agree please indicate by signature below.

A handwritten signature in black ink, appearing to read "Mark Ostwald", is written over a horizontal line.

Mark Ostwald, USF&WS

PROPERTY DESCRIPTION WORK ORDER

DATE ORDERED: July 23, 2012 DATE REQUIRED: August 7, 2012

TO: Dennis J. Gelvin, PLS, Land Description & R/W Specialist

FROM: Michele Melrose PHONE: 902-1613

PROJECT: Dabob Bay NA - Allen

PROGRAM CODE: 93D

Please review the following legal description and calculate for each area (see attached title report, maps & encumbrance documents):

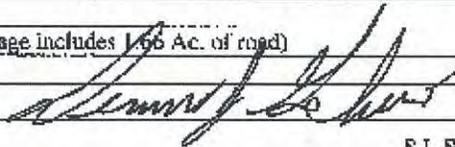
Tract 3 of Survey recorded in Volume 5 of Surveys, on page 168, known as "Dabob View Tracts", records of Jefferson County, Washington; being a portion of Government Lot 1 in Section 15, Township 27 North, Range 1 West, W.M., Jefferson County, Washington.

Situate in the County of Jefferson, State of Washington.

I have reviewed the above description, and calculated the area of the property at  
5.01 acres, as computed from the referenced record of Survey.

(Acreage includes 166 Ac. of road)

X



Date: July 27, 2012

S.L.S.U. File No.: L2928 S15 T27 R1W Allen



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Peter Goldmark - Commissioner of Public Lands

Dennis J. Gelvin, PLS 21674  
Professional Land Surveyor  
Land Description & R/W Specialist

ENGINEERING  
1111 WASHINGTON ST SE  
PO BOX 47030  
OLYMPIA, WA 98504-7030  
PHONE (360) 902-1182  
[dennis.gelvin@dnr.wa.gov](mailto:dennis.gelvin@dnr.wa.gov)

**PROPERTY DESCRIPTION WORK ORDER**

DATE ORDERED: May 4, 2012

DATE REQUIRED: May 14, 2012

TO: Dennis J. Gelvin, PLS, Land Description & R/W Specialist

FROM: Michele McGraw, Special Lands      PHONE: 902-1613

PROJECT: Dabob Bay NA - Denz

PROGRAM CODE: 93D

Please review the following legal description and calculate the area (see attached title report, maps & encumbrance documents)

The North 668 feet of Tracts 7 and 8 of Survey recorded in Volume 5 of Surveys, page 165, records of Jefferson County, Washington, being a portion of Government Lot 1, Section 15, Township 27 North, Range 1 West, W.M., Jefferson County, Washington. (Dabob View Tracts)

I have reviewed the above description, and calculated the area of the property at  
**5.01** acres, as shown on the referenced R.O.S.

(This includes 0.38 Ac. within two road right of ways)

X



Date: May 9, 2012

S.L.S.U. File No.: L2928 S15 T27 R1W Denz



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Peter Goldmark - Commissioner of Public Lands

Dennis J. Gelvin, PLS 21674  
Professional Land Surveyor  
Land Description & R/W Specialist

ENGINEERING  
1111 WASHINGTON ST SE  
PO BOX 47030  
OLYMPIA, WA 98504-7030  
PHONE (360) 902-1182  
dennis.gelvin@dnr.wa.gov

PROPERTY DESCRIPTION WORK ORDER

DATE ORDERED: July 23, 2012 DATE REQUIRED: August 7, 2012

TO: Dennis J. Gelvin, PLS, Land Description & R/W Specialist

FROM: Michele Melrose PHONE: 902-1613

PROJECT: Dahob Bay NA - C. Smith

PROGRAM CODE: 93D

Please review the following legal description and calculate for each area (see attached title report, maps & encumbrance documents):

**Tract 4 of Survey recorded in Volume 5 of Surveys, page 165, records of Jefferson County, Washington, being a portion of Government Lot I, Section 15, Township 27 North, Range 1 West, W.M., Jefferson County, Washington.**

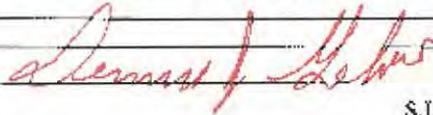
**Situate in the County of Jefferson, State of Washington.**

I have reviewed the above description, and calculated the area of the property at

5.03 acres, as shown on the referenced R.O.S.

(This includes 0.89 Ac. in road R/W)

X



Date: August 1, 2012

S.L.S.U. File No.: L2928 S15 T27 R1W C Smith



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Peter Goldmark - Commissioner of Public Lands

**Dennis J. Gelvin, PLS 21674**  
Professional Land Surveyor  
Land Description & R/W Specialist.

ENGINEERING  
1111 WASHINGTON ST SE  
PO BOX 47030  
OLYMPIA, WA 98504-7030  
PHONE (360) 902-1182  
[dennis.gelvin@dnr.wa.gov](mailto:dennis.gelvin@dnr.wa.gov)

**PROPERTY DESCRIPTION WORK ORDER**

DATE ORDERED: May 29, 2012

DATE REQUIRED: May 30, 2012

TO: Dennis J. Gelvin, PLS, Land Description & R/W Specialist

FROM: Michele Melrose, Special Lands      PHONE: 902-1613

PROJECT: Dabob Bay NA - Gustafson

PROGRAM CODE: 93D

Please review the following legal description and calculate the area (see attached title report, maps & encumbrance documents)

That portion of Government Lot 4, Section 28, Township 27 North, Range 1 West, W.M., Jefferson County Washington, described as follows:  
Beginning at the southwest corner of said Government Lot 4;  
Thence easterly along the south line thereof 289.5 feet more or less to the easterly boundary of said Government Lot 4;  
Thence northeasterly along said easterly boundary 490 feet;  
Thence north 70° west to the westerly line of said Government Lot 4;  
Thence southerly along the said westerly line to the point of beginning.  
Situate in the County of Jefferson, State of Washington.

**A boundary survey is required to locate the boundary lines on the ground, locate evidence of possible easements that may not be of record, and ensure the accuracy of area determination.**

I have reviewed the above description, and calculated the area of the property at **5.0±** acres, as computed from data in the description. (the acreage is more or less because the easterly boundary is an aquatic line, which is a moving line.

Note that Gov't Lot 4 was patented prior to Statehood, and the east boundary is the meander line, or the line of ordinary high tide, whichever is further waterward.

|   |   |                    |
|---|---|--------------------|
| X |  | Date: May 30, 2012 |
|---|---|--------------------|

S.L.S.U. File No.: L3507 S28 T27 R1W Gustafson Rev.



**Dennis J. Gelvin, PLS 21674**  
Professional Land Surveyor  
Land Description & R/W Specialist  
L3507 S28 T27 R1W Bristol

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PO BOX 47030  
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PHONE (360) 902-1182  
dennis.gelvin@dnr.wa.gov

# Dabob Bay

DNR Natural Area

16

Allen

701153024

Denz

701153019

Smith

701153023

T27R01W

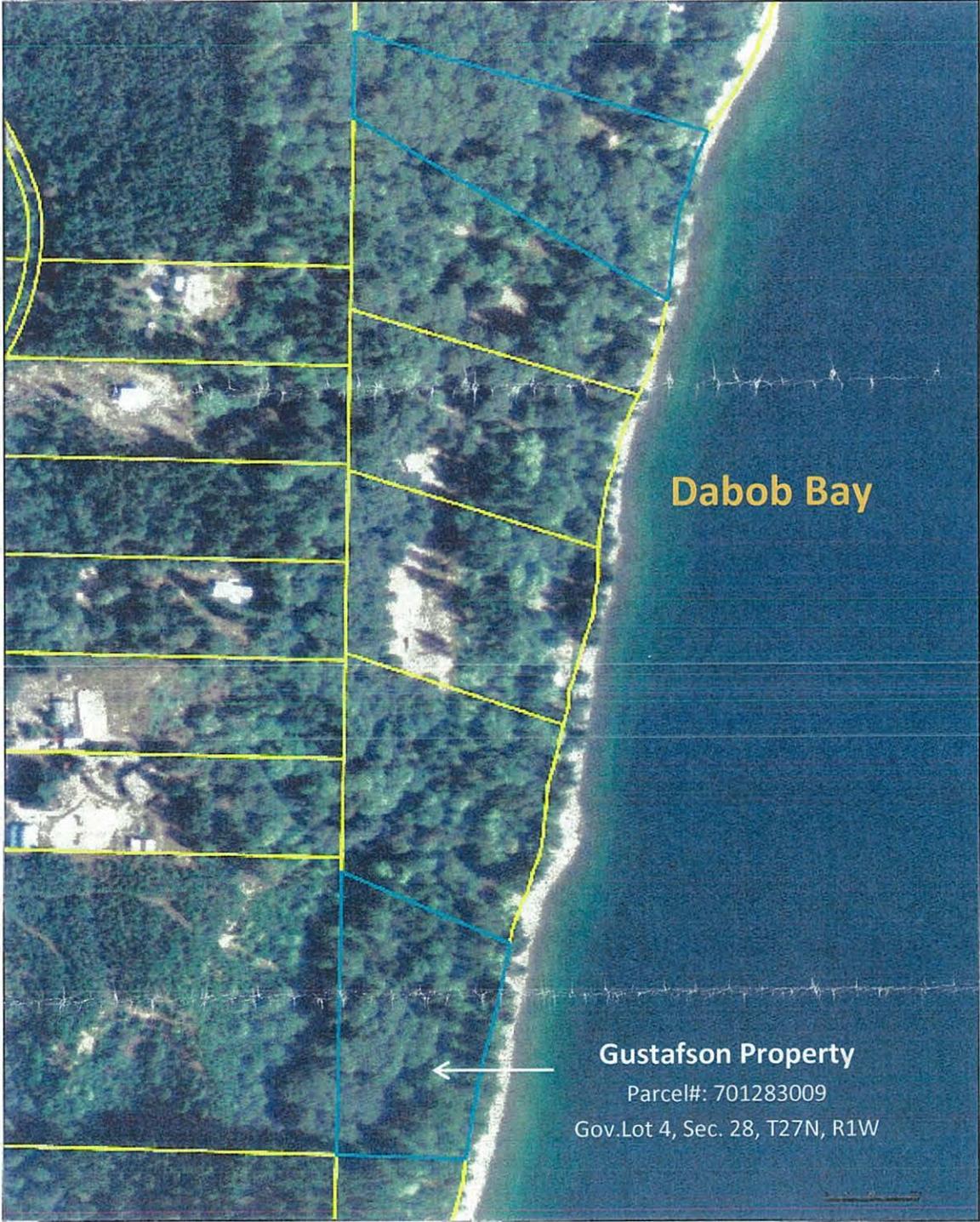
15

## Legend

- Jefferson County Parcels
- Sections / Townships
- Granted Trust Lands
- Forest Board Trust Lands
- NAP / NRCA
- Other DNR-Managed Lands

0 125 250 500 750 1,000 Feet





Dabob Bay

Gustafson Property

Parcel#: 701283009

Gov.Lot 4, Sec. 28, T27N, R1W



U.S. Fish and Wildlife Service  
510 Desmond Dr SE, Suite 102  
Lacey, Washington 98503

In Reply, Refer To:  
USFWS Reference:  
01EWF00-2012-TA-0149

United States Department of the Interior  
Fish and Wildlife Service  
Washington State  
Department of Natural Resources



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Washington State  
Department of Natural Resources  
1111 Washington Street SE  
Olympia, Washington 98504-7000

Mark Eberlein  
Regional Environmental Officer  
U.S. Department of Homeland Security  
Federal Emergency Management Agency  
Region X  
130 228<sup>th</sup> Street SW  
Bothell, Washington 98021

Dear Mr. Eberlein

This letter concerns the Dowans Creek Road Emergency Repair Project (Project). At issue is the rerouting of the damaged road through occupied marbled murrelet (*Brachyramphus marmoratus*) (murrelet) habitat on state trust land that is managed under a Habitat Conservation Plan (HCP) by the Washington Department of Natural Resources (WDNR). The murrelet is listed as a threatened species under the Endangered Species Act (ESA). The purpose of this letter is to communicate to the Federal Emergency Management Agency (FEMA) the position of the WDNR and the U.S. Fish and Wildlife Service (USFWS) on the mitigation proposed by FEMA and Jefferson County to comply with the WDNR HCP as outlined below.

History and Purpose of the Proposed Project

The Dowans Creek Road is a single-lane gravel county road located on the south side of the Bogachiel River in Jefferson County, Washington. Jefferson County proposes to construct approximately 1,690 feet of new road on lands managed by the WDNR. The road provides access to 53 rural parcels and services approximately 9 full or part-time residences. A portion of the road, located on an old deep-seated landslide, was damaged during heavy rains in December 2007. The damaged section is approximately 120 feet above the Bogachiel River and any additional erosion is likely to cause the loss of this section of the road. Because of this circumstance and to ensure access to the lands and residences, Jefferson County determined that the best course of action was to relocate the road farther away from the river. Jefferson County qualifies for Federal assistance from FEMA to address infrastructure damages incurred during the 2007 floods.

During the environmental review process for the proposed action, Jefferson County and FEMA considered several route alternatives, including upgrading existing logging roads and relocating the at-risk section of the road away from the river (preferred alternative) to avoid or minimize impacts to listed species and provide access for residents. Unfortunately, all of the alternatives that would have used existing logging roads were determined to not be viable due to significantly higher costs associated with replacing bridges, new road construction, and the increased distances for emergency response and travel times.

Jefferson County and FEMA's preferred alternative reroutes the road away from the river and constructs new road through occupied murrelet habitat on WDNR managed lands. The primary threats to the continued existence of the murrelet are the loss or degradation of suitable nesting habitat and low productivity, the combination of which is contributing to a 7.31 percent annual decline of the population in Washington. Formal consultation on the preferred alternative between FEMA and the USFWS is required pursuant to section 7 of the ESA.

The WDNR is obligated to manage state trust lands in accordance with the ESA permit issued in 1997 by the USFWS for implementation of the HCP (HCP I.1). The HCP defines forest management activities that the WDNR (IV. 203) receives incidental take coverage for species listed under the ESA, including the marbled murrelet. Degrading occupied marbled murrelet nesting habitat, which this action would do, would be inconsistent with the WDNR HCP without appropriate mitigation.

For the Dowans Creek Road Emergency Repair Project to move forward as described, the WDNR HCP requires that appropriate mitigation needs to be provided (IA. 25.3 (2)). In order to meet FEMA's obligation under section 7 of the ESA to ensure its action does not jeopardize the continued existence of the murrelet, FEMA is proposing to mitigate the impacts caused by the proposed Project as described below.

#### Compensatory Conservation Strategy

Marbled murrelets are relatively long-lived (average lifespan is 15 yrs) and express strong site-fidelity to nesting areas. The ability of the murrelet population to recover from impacts that reduce reproductive success is extremely low. The continued loss and degradation of nesting habitat, coupled with other threats across the species' listed range, is expected to result in continued, serious declines. Federal agencies, with the assistance of the USFWS, must ensure that their actions do not appreciably reduce the likelihood of survival and recovery of the murrelet. Efforts to avoid or compensate for the loss or degradation of nesting habitat may therefore be necessary to meet this obligation.

To address the issue of new road construction in occupied murrelet nesting habitat, the USFWS, FEMA, Jefferson County, and the WDNR (Project Partners) worked cooperatively over the last three years to identify options and develop a compensatory conservation strategy that would ensure that the preferred alternative for the Project would maintain the conservation objectives of the WDNR HCP.

The primary purpose of the Compensatory Conservation Strategy is to purchase and protect properties that would, either now or within a short period of time, replace the habitat function that is being impacted by the preferred alternative and protect the replacement habitat in perpetuity through transfer to the State or a Land Trust. The occupied stand that will be impacted by the preferred alternative for the Project has a stand origin date of 1934 but also contains scattered remnant older trees (most likely from the 1921 windstorm). Even though the patch of suitable habitat is relatively small (approx. 20 acres in size) and isolated, the fact that it has been determined to be occupied means that it functions as nesting habitat.

The USFWS identified the following three approaches (listed in order of priority) for identifying replacement parcel(s) for acquisition:

1. "In-kind" - same habitat function/value
  - o Occupied or suitable habitat (> 80 yrs old) threatened with removal – near the site
  - o Occupied or suitable habitat threatened with removal – far from the site
2. "Out-of kind" – not currently suitable nesting habitat, but could be suitable in the near future
  - o Future suitable habitat (approx. 50 to 80 yrs old) adjacent to larger blocks of habitat or protected areas – near the site (west side of Olympic Peninsula)
  - o Future suitable habitat adjacent to larger blocks of habitat or protected areas – far from the site (east side of Olympic Peninsula or SW Washington)
3. Young forest (<50 yrs) – this option is not considered viable because of the length of time it will take for these stands to function as suitable nesting habitat
  - o Isolated younger stands (<50 yrs old) – close to the project
  - o Isolated younger stands far from the site but adjacent to protected areas - highest mitigation ratio

Priority 1 (In-kind Replacement of Habitat Function) Options:

After some initial investigation, this approach was determined to be not viable for several reasons:

1. Existing privately-owned occupied murrelet habitat is already adequately protected by Washington Forest Practice Rules (222 WAC).
2. Private companies are often not interested in selling murrelet encumbered property at appraised value
3. WDNR realizes no benefit or advantage on behalf of the Trusts by accepting murrelet encumbered land as trust land and was not willing to manage small isolated properties as reserves.

Jefferson County, FEMA and the USFWS then pursued options of finding land trust entities to purchase and manage conservation properties. The North Olympic Land Trust, Hoh River Land Trust and Jefferson County Land Trust were all identified as potential conservation managers and were contacted. The Hoh River Land Trust did not have any current properties on their list and most of the remaining private parcels within the land trust boundaries were too young or recently harvested stands that did not meet the priority for mitigation. Although there were more options for parcel acquisitions that had forests with the same or similar habitat functions within the service areas of the North Olympic and Jefferson County Land Trusts areas, FEMA stated that they could not fund the required endowments and/or maintenance costs associated with long-term land conservation management required by land trust entities. Thus, the options of purchasing and protecting occupied habitat close to the Project site were not feasible.

The USFWS also searched for opportunities for land acquisitions in other geographic areas (e.g. southwest Washington) that were identified as priority areas for marbled murrelet recovery within the affected recovery zone. However, this option was not viable for several reasons: 1) distance from the Project site proved problematic for both FEMA and the county, limiting the options to sites within Jefferson County and 2) trees on the parcels were too young.

Priority 2 (Out-of-kind Habitat Function Replacement) Option:

This option involves purchasing parcels for management by the WDNR under other authorities, such as Natural Area Preserves (NAP) or Natural Resources Conservation Areas. Purchasing parcels for inclusion into the Dabob Bay Natural Area, which includes both designations, meets many of the objectives of the Conservation Strategy and constraints discussed above:

1. This area has been identified by the USFWS as a priority area for ESA Section 6 land acquisitions. Many of the properties within the boundary of the Dabob Bay NAP are forested and have the potential to be suitable murrelet nesting habitat in the near future (stand ages > 50 yrs)
2. The Dabob Bay NAP is in Jefferson County and is managed by the WDNR in permanent conservation under RCW 79.70 and 79.71. This protection would be in perpetuity.
3. Although the Dabob Bay NAP is in a different murrelet conservation zone than the project location, research (radio telemetry data) indicates that murrelets nesting on the west side of the Olympic Peninsula often forage in Puget Sound. The USFWS concluded because the mitigation site could provide benefits to murrelets from both conservation zones, mitigation land located in a different conservation zone was not an issue for the Conservation Strategy.

The Compensatory Conservation Strategy relies on purchasing private forest property and transferring it to the State for permanent protection of murrelet habitat. The number or size of parcels that need to be purchased will depend on the amount of time needed for the trees on the properties to meet the definition of suitable murrelet nesting habitat.

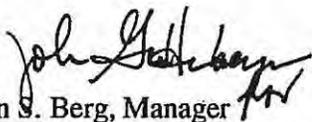
Acquisition and transfer of the replacement lands is contingent on full funding by the FEMA and Jefferson County. WDNR would receive transaction and staff costs in addition to land and appraisal costs to cover transaction and realty costs. This option would include land value equal to the current estimated market value to replace habitat loss (approximately \$200,000, depending on parcel size and habitat), plus the costs to appraise the land (estimated at \$10,000 to \$15,000) and all WDNR administrative transaction staff costs (estimated at \$10,000 to \$15,000). It would also involve a fixed level of funding for mitigation that could be transferred to the WDNR and would be used to supplement or leverage larger ongoing land acquisitions in Dabob Bay, such as those with multiple funding sources.

The WDNR is already working toward acquisition of multiple parcels in Dabob Bay that appear to be good candidates for mitigation as described above. Some of these acquisitions already have funding identified that would be supplemented by the FEMA mitigation dollars. The WDNR Special Lands Transactions Program will review these parcels with the USFWS and identify those to be acquired as mitigation by end of March 2012. Once WDNR and the USFWS agree on the parcels to be acquired WDNR Special Lands Transactions Program will negotiate a Purchase and Sale agreement with the sellers to acquire the property. The goal for acquisition and transfer to WDNR Natural Areas Program is by the end of 2012.

In summary, we think the Priority 2 Option is the most viable approach for FEMA to implement and all of the affected parties support this option. Either option, if implemented as characterized above, will assist FEMA to comply with the ESA section 7 obligations and maintain the integrity of the WDNR HCP. If the mitigation opportunities in the Dabob Bay NAP do not work out for some reason, the option of protecting currently suitable or near-suitable murrelet habitat using a land trust or other WDNR authorities may need to be explored further.

If you have any questions regarding this letter, please call Martha Jensen of the Service at (360) 753-9000, or Clay Sprague of the WDNR at (360) 902-1788.

Sincerely,



Ken S. Berg, Manager  
U.S. Fish & Wildlife Service  
Washington Fish and Wildlife Office



Clay Sprague  
HCP Implementation Manager  
Department of Natural Resources

3/14/12

Handwritten scribbles and faint markings, possibly including the number '12' and some illegible characters.

December 17, 2012

**TO:** Clay Sprague, HCP Implementation Manager  
**THROUGH:** Mary McDonald, State Lands Assistant, Pacific Cascade Region  
**FROM:** Noelle Nordstrom, Pacific Cascade Region Biologist  
**SUBJECT:** Proposed Road Failure Repair in Northern Spotted Owl Low Quality Habitat

Background: During the week of November 18, 2012, Southwest Washington experienced a significant rain event that caused flooding and slope failures in scattered locations throughout the region. One of these failures has damaged the Half-Moon Mainline in Lewis District, in Section 27 of Township 13 North, Range 06 West. This is an important haul route for the area that is now impassable, that is needed for the long-term management of the area. This failure also affects the haul route for the Violet timber sale, a sold sale. The failure site is within a polygon of low quality northern spotted owl habitat in the "Owl Areas" described in DNR's Spotted Owl policy PR 14-004-120.

Proposal: On November 29, 2012 I visited the failure site with Pacific Cascade Engineer, Matt Comisky to discuss repair plans and potential impacts to the polygon of owl habitat. The proposed repair involves shifting approximately 100 feet of the road upslope, cutting into the bank uphill of the failure. Six second-growth Douglas fir trees and four red alder would need to be cut in order to widen the road into the hill and also recover some side cast material below the road. All of the trees have diameters less than 20 inches at breast height. One of the trees is growing on an old stump, and there is a second stump on the downhill side of the road which will also need to be removed.

Removing the trees will have a negligible impact on the canopy cover in that specific location; and other than the two stumps there it is not significant dead and downed wood that would be impacted by the project. The forest structure at this site is very simple and the trees are less than 50 years old. No large structurally unique trees, snags, downed wood, or complex vertical structure will be disturbed. It is my biological opinion that removing the trees will not change the trajectory of the stand towards becoming higher quality habitat.

Alternatives: There is one alternate route that could be used to haul rock for the Violet timber sale. This option would increase the rock haul from 4.6 miles (9.2 miles round trip) to about 7.5 miles (15 miles round trip). For timber haul however, the majority of Unit 3 would be locked up

behind the sidecast failure on the upper Halfmoon Mainline and there is no other haul route available to remove it.

If you concur that this proposal is consistent with HCP Conservation Strategies, the Settlement agreement, and other department procedures, please signify by signing below.

  
\_\_\_\_\_  
Clay Sprague, HCP Implementation Manager

12/19/12  
Date

Some photos and maps of the site are attached for reference.



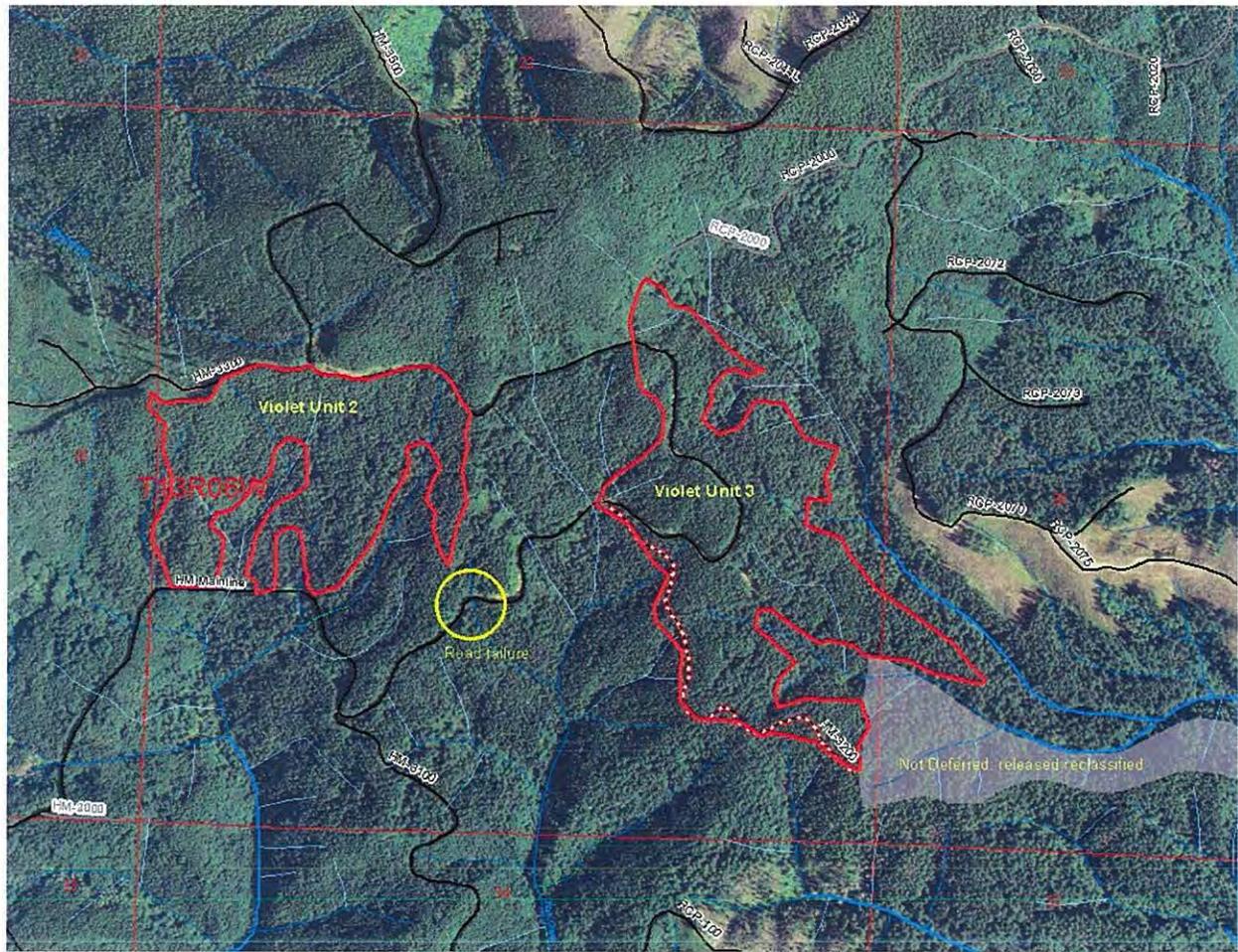




Figure 1: View of the project site: The road failure is on the far side of Matt. The road bed will be widened by cutting into the hillside immediately upslope of the existing road. The nurse stump and tree in the upper right corner of the photo will be removed.



Figure 2: Looking downslope, into the road failure.



Figure 3: Two Douglas-fir that will be removed with alder saplings in the foreground.

## SPRAGUE, CLAY (DNR)

---

**From:** SPRAGUE, CLAY (DNR)  
**Sent:** Wednesday, January 02, 2013 8:39 AM  
**To:** BERGVALL, LAURIE (DNR)  
**Cc:** ESTEP, ALLEN (DNR)  
**Subject:** FW: Murrelet habitat question re: Nice Marmot TS  
**Attachments:** Nice Marmot habitat question.jpg

Hi Laurie, as we discussed at the SLA meeting I'm comfortable with your approach here. Thanks and hope you had a good holiday.

---

**From:** ESTEP, ALLEN (DNR)  
**Sent:** Thursday, December 27, 2012 8:29 AM  
**To:** SPRAGUE, CLAY (DNR)  
**Subject:** FW: Murrelet habitat question re: Nice Marmot TS

Yes, looks fine to me.

### **Allen Estep**

Forest Certification/Policy for Sustainable Forests Program Lead  
Forest Resources and Conservation Division  
Washington State Department of Natural Resources (DNR)  
1111 Washington St SE  
PO Box 47016  
Olympia, WA 98504-7016  
360-902-2898 (office)  
360-280-9948 (cell)  
[allen.estep@dnr.wa.gov](mailto:allen.estep@dnr.wa.gov)  
[www.dnr.wa.gov](http://www.dnr.wa.gov)

---

**From:** SPRAGUE, CLAY (DNR)  
**Sent:** Monday, December 03, 2012 8:54 AM  
**To:** ESTEP, ALLEN (DNR)  
**Subject:** FW: Murrelet habitat question re: Nice Marmot TS

I've read this and concur with the Region's approach. How about you?

**From:** BERGVALL, LAURIE (DNR)  
**Sent:** Thursday, November 29, 2012 2:30 PM  
**To:** SPRAGUE, CLAY (DNR); ESTEP, ALLEN (DNR)  
**Cc:** EGTVEDT, LISA (DNR)  
**Subject:** FW: Murrelet habitat question re: Nice Marmot TS

Can you please read Lisa's email and let us know what you think? Thank you. Laurie

**From:** EGTVEDT, LISA (DNR)  
**Sent:** Thursday, November 29, 2012 2:10 PM  
**To:** BERGVALL, LAURIE (DNR)  
**Cc:** MCBRIDE, PETER (DNR); Schmal, Justin (DNR)  
**Subject:** Murrelet habitat question re: Nice Marmot TS

Laurie –

I have come across a scenario involving marbled murrelet habitat that is somewhat difficult to type under our existing guidance; the issue is that a small part of this newly-identified habitat block was previously mapped and surveyed, as detailed next. During field reconnaissance for the proposed Nice Marmot timber sale, a large block of suitable habitat was delineated by Justin Schmal, & field-verified by me. The complicating factor is that a very small portion (approx. 5.8 ac) of this suitable habitat block was **originally identified, delineated by contract crews, and surveyed in 2006-07, with no detections**. However, the overriding majority (**38.9 of 44.7 total ac**) of the habitat block is “**newly identified**”, and most of this (approx. 31.7 ac) was NOT covered by the surveys. Even allowing for incidental survey coverage, only roughly 13 acres of the revised suitable habitat polygon was covered by the surveys. The key operational question now is whether buffering is needed.

In this situation I believe the appropriate handling would be to **treat the entire block as Criteria 2 newly-identified habitat** for the immediate planned activity (adjacent harvest), for the following reasons: First, were the ENTIRE block unsurveyed/newly-identified habitat, its acreage and platform density correspond to that of Criteria 2 (medium quality) newly-ID habitat; the structural characteristics do not attain Criteria 3 (higher quality). Next, the limited survey results (noting that they apply to only a small portion of the habitat block) do not provide evidence of likely occupancy here, and thus provide no motive to upgrade to Criteria 3 status. The only part of our current policy that could suggest buffering is Step 3, which addresses previously-known and delineated habitat. However, this section does not fit well, as the previously-delineated part of the habitat **has** been surveyed. The unsurveyed (larger) extent is newly-identified and thus would more logically be addressed under Step 7 (management around newly-identified habitat).

While the particular circumstances of this situation leave me comfortable with not buffering this habitat (e.g. treating ~ as Criteria 2), I recognize that these situations (partially-surveyed blocks) were not envisioned nor explicitly addressed in our 2007 revised strategy, and thus present some ambiguity, for which reason I bring this to your attention.

I would like to know whether you agree with this determination, and/or whether you think this scenario should be run by Clay for consultation. I am attaching a map for your reference. Please let me know if you have any follow-up questions.

Thanks,

**Lisa Egtvedt**

Fish and Wildlife Biologist

Northwest Region

Washington Department of Natural Resources (DNR)

360-333-5769

[lisa.egtvedt@dnr.wa.gov](mailto:lisa.egtvedt@dnr.wa.gov)

[www.dnr.wa.gov](http://www.dnr.wa.gov)



ORIGINAL suitable: 5.8 ac

TOTAL SUITABLE: 44.7 ac

128R08E

128R08E

Nice Marmot U2

Nice Marmot U1

Boulder

Blue line  
survey site

PT-26  
PT-M

PT-27

35

36

36

BM-M1

MC-M1

MC-70

MC-71

1-B-1000



January 4, 2013

To: Clay Sprague; Assistant Forest Resources Division Manager

Through: Randy Niessner; Assistant Southeast Region Manager  
Larry Leach, Klickitat District Manager

From: Allen Estep; Forest Certification/Policy for Sustainable Forests Program Lead

Subject: Conversion of Forest Land to Agricultural Land in SE Region

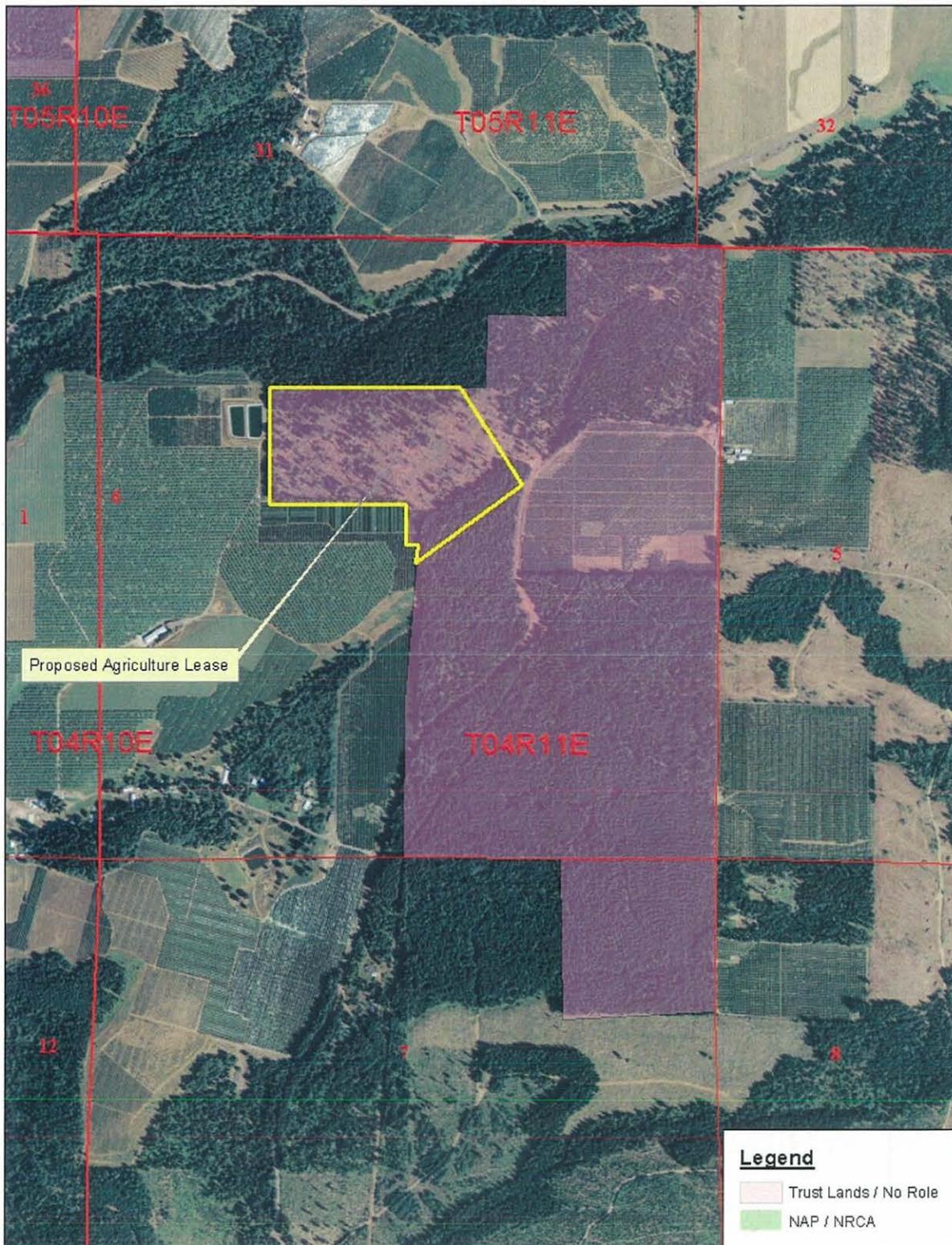
Southeast Region is considering the conversion of a forest land parcel to agricultural land for the intention of leasing the parcel as an orchard for agricultural use. The parcel is within the Klickitat HCP Planning Unit and currently is designated as northern spotted owl Desired Future Condition (DFC) within the Klickitat Scattered management area (Grand Fir series, frigid-warm). Most of the parcel is non-habitat; however a portion of the parcel is DFC habitat (see Map 2). A draft boundary of the conversion is included on the attached maps and will be formalized if your consultation supports this action. If approved, the parcel would be recorded in DNR's corporate GIS data and designated an agricultural use. This would then result in the area being designated as non-HCP covered. The conversion would allow SE Region to manage this parcel with an agricultural objective and to attain a higher return from its current use for the State Forest Transfer Trust 01.

A result of this conversion would be to remove the parcel from HCP coverage and reduce the amount of DFC managed lands by approximately 50 acres. Of the 50 acres, approximately 11 acres are suitable DFC (dispersal) habitat and the remaining is non-habitat. Currently this Grand Fir series has a surplus of habitat (2,137 acres habitat out of 3,791 acres), but the total series would be reduced by 50 acres. Removal of this parcel from HCP coverage is necessary because the agricultural use would be inconsistent with the HCP and the HCP defines "Permit Lands" as "This HCP covers all DNR-managed forest lands within the range of the northern spotted owl, excluding those lands designated as urban or leased for commercial, industrial or residential purposes and those lands designated as agricultural." (HCP I.2)

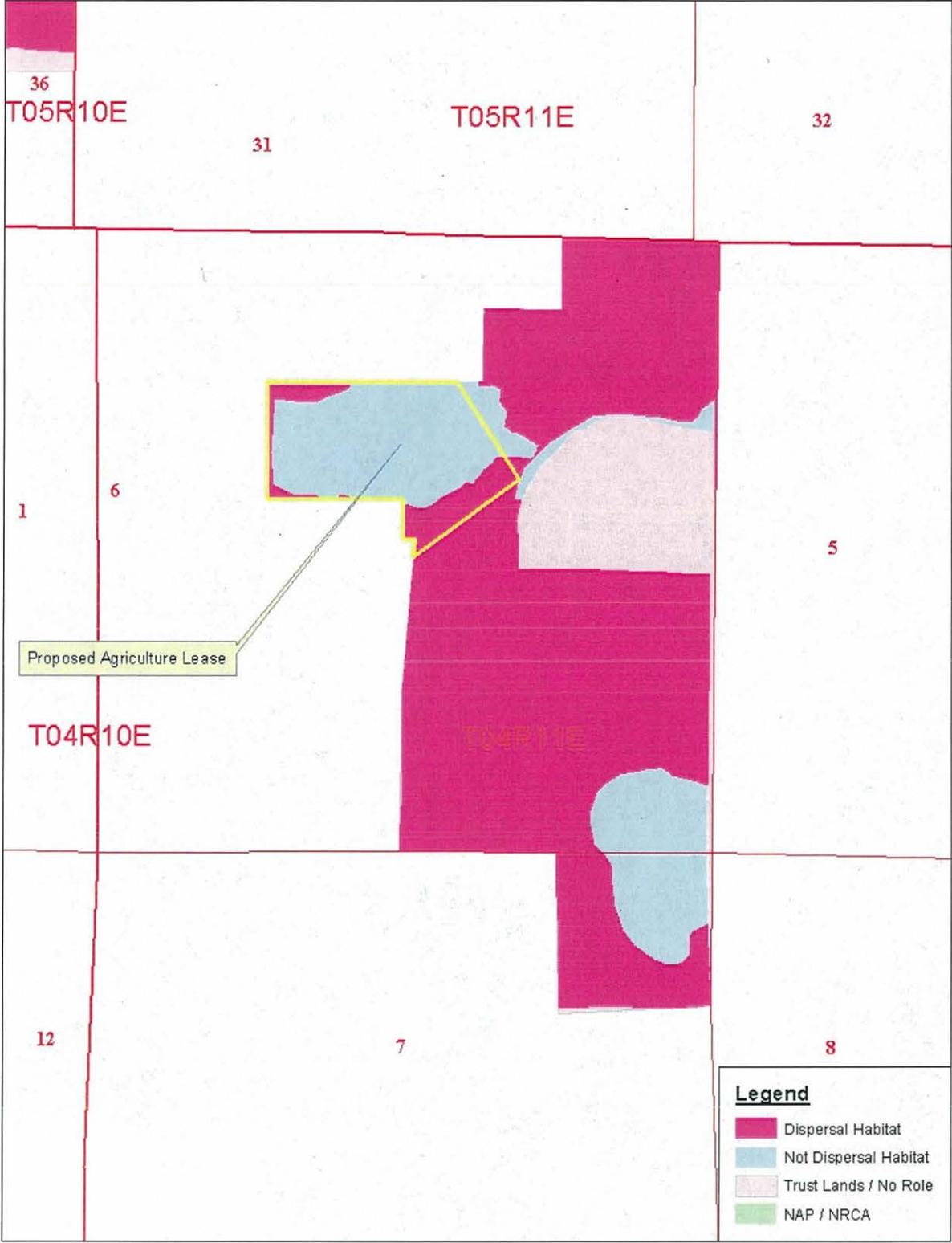
As mitigation, Map 3 delineates an area of forest land that is currently not designated as dispersal/DFC managed lands. It is approximately 5 miles east of the orchard



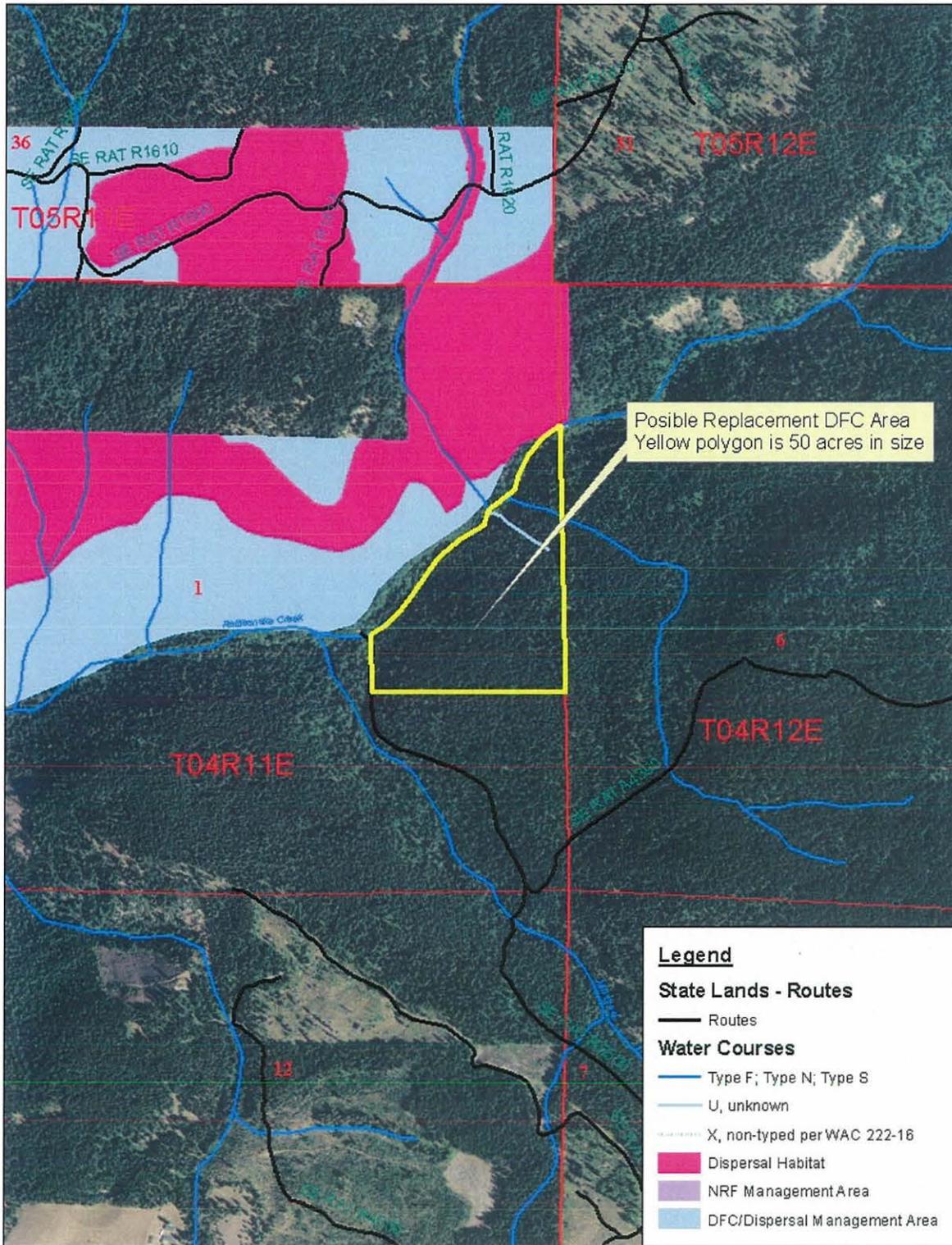
Map 1: This map/photo delineates the proposed agricultural conversion boundary (yellow) and surrounding land uses.



Map 2: This map delineates the proposed agricultural conversion boundary (yellow) and current habitat conditions within the boundary.



Map 3: This map delineates the proposed replacement area to be designated as dispersal or DFC management area. It approximates the amount of dispersal area taken out of NSO management for the conversion.





January 7, 2013

TO: Clay Sprague, HCP Implementation Manager

FROM: Mary McDonald, Pacific Cascade Region State Lands Assistant

SUBJECT: Request for road construction and cable yarding corridors within Northern Spotted Owl dispersal habitat

Pacific Cascade Region has a planned timber sale (VOGEL CK VDT VRH) located in the Silver Star Spotted Owl Management Unit (SOMU). VOGEL CK VDT VRH is a four unit timber sale that combines variable density thinning and variable retention harvesting to stimulate Northern Spotted Owl Habitat and generate revenue for Forest Board Transfer (01) and Common School (03) trusts within Skamania County. We are proposing road construction (1.2 acres) and cable yarding corridors adjacent to Unit 2 within Northern Spotted Owl dispersal habitat (see attached map). Unit 2 is found in sections 15 and 16 of Township 02N, Range 05E. The activity in Unit 2 is in non-habitat and is entirely surrounded by either next-best or dispersal habitat making access extremely difficult. The following assesses the options and demonstrates why the option selected is the most ecologically friendly and operationally feasible.

Alternatives were considered for access to the southwest corner of Unit 2:

1. Downhill yarding – This option was considered and determined to not be operationally feasible because side slopes are too steep and there is not enough space to accommodate a safe landing zone without significant earthwork inside this habitat zone. This option would still require cable yarding through dispersal habitat.
2. Routing the road downhill of the selected option – This option was also considered but would require excavation of large landings in hillside, construction of a full-bench road with end haul, and would still require construction of road through dispersal habitat.

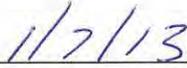
The preferred option of locating the road and landing in dispersal habitat as shown on the map and labeled “Spur B” provides for greater resource protection by avoiding significant excavation and road construction in next-best habitat. The preferred option uses an existing roadbed which would be extended across a short ridge top road to access a cable yarding setting that will minimize soil disturbance and provide a landing area large enough to safely operate.

The proposed new construction spur will be abandoned post-harvest and the access road to Unit 2 will be decommissioned. The contract will be written with specific language to minimize the number and size of cable yarding corridors and will require approved by the contract administrator, who will consult with the Region Wildlife Biologist, before work begins. These corridors will be located in areas that favor natural openings or previously used skid trails. These corridors will create gaps, stimulate understory vegetation, and actually enhance the vertical structure in this otherwise homogenous Douglas-fir stand.

The Region Wildlife Biologist has reviewed the proposal on the ground and her assessment and recommendations are included with this request for your review.

Please feel free to contact me via phone or email if you have any further questions. Thank you for your time and thoughtful consideration of our proposal. Please indicate your concurrence with this proposal by signing below.

  
\_\_\_\_\_  
Clay Sprague, HCP Implementation Manager

  
\_\_\_\_\_  
Date

December 4th, 2012

TO: Mary McDonald, State Lands Assistant, Pacific Cascade Region

FROM: Danielle Munzing, Fish and Wildlife Biologist, Pacific Cascade Region

RE: Biologist's Note: Proposed Road, Landing, and Cable Corridors Associated with the Vogel Creek Timber Sale

This memo is regarding proposed road construction, landing and potential cable corridors needed to access a 28.6 acre Variable Retention Harvest on the Vogel Creek timber sale in Yacolt District. According to the Future Habitat Area (FHA) Strategy for Northern Spotted Owl (NSO) in Pacific Cascade Region "some road building may be needed to access and manage non-habitat areas".

The Vogel Creek timber sale is located outside the current FHA in the Silver Star Spotted Owl Management Unit (SOMU) in Sections 15 and 16, Township 2 North, Range 05 East. Topography and previous thinning activities limit access to this unit, which is flanked to the south and east by designated Northern Spotted Owl (NSO) dispersal habitat. The proposed road and landing will utilize an old road bed, but will need to be extended along the ridge above Unit 2 in order to conduct management activities in Unit 2, specifically the southwest corner, which would otherwise be inaccessible (see foresters attached map). In addition, cable corridors through dispersal habitat will be required to access the southwest corner.

On November 14th, 2012 Jacob Oberlander (NRF/Dispersal Unit Forester) and I walked the proposed road route to assess the forest stand characteristics. This portion of the habitat polygon was thinned about eight years ago and while the stand appears to provide canopy closure, the trees are small and there is a lack of downed wood, vertical structure, and snags (Photo 1). The proposed cable corridors will utilize old skid trails from the previous harvest and natural openings in the canopy. Size and number will be limited with specific contract language, for example:

All corridors through NSO Dispersal Habitat associated with Unit 2 will be marked and pre-approved by the Contract Administrator prior to any harvest activities.

Yarding corridor design:

1. Yarding Corridors shall be minimized, in quantity (no more than two corridors) and width.
2. Yarding corridors should be on average 12 feet in width or less.
3. Yarding corridors should be on average at least 100 feet apart.

In addition, I requested, where possible, wood be left on the ground to contribute towards the downed wood component. The proposed road, landing, and cable corridors is the best option for accessing Unit 2 and will have the least amount of impact on NSO dispersal habitat.

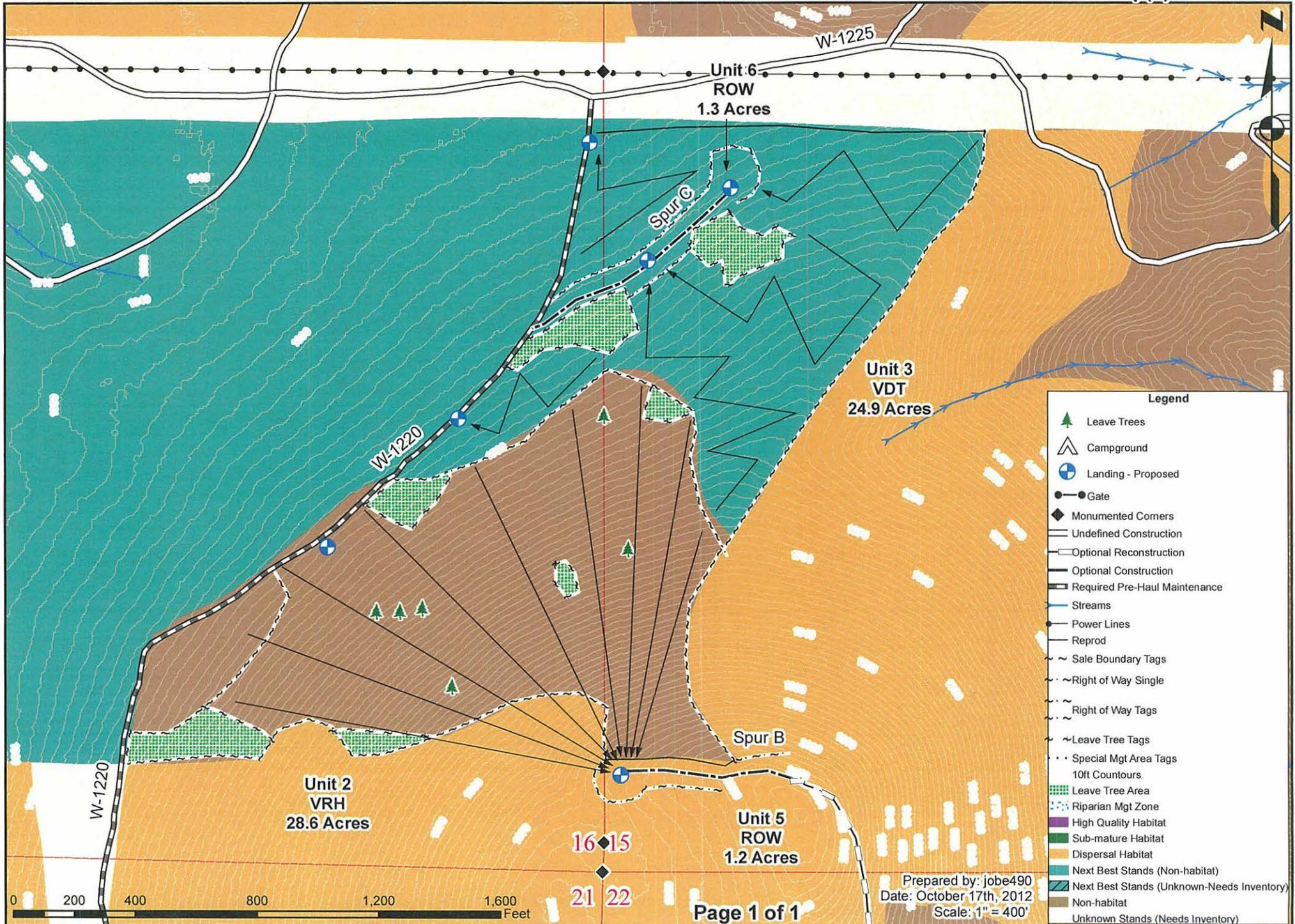


Photo 1. Orange tags mark the proposed road through Northern Spotted Owl dispersal habitat to access Unit 2 on the Vogel Creek timber sale. The black arrow points to a skid trail from pervious harvest that may be used as a cable corridor to reach the south west corner of the unit.

# LOGGING PLAN

SALE NAME: VOGEL CREEK VRH VDT

Township(s): T02N R05E





## MEMORANDUM

**TO:** Clay Sprague, HCP Implementation Manager

**THROUGH:** Dave Lorence, South Puget Sound Region State Lands Assistant

**FROM:** Alan Mainwaring, South Puget Sound Region Wildlife Biologist

**SUBJECT:** Elbe Hills ORV Day Use Area Expansion Consultation

**DATE:** January 7, 2013

**Proposal:** The South Puget Sound Region and Asset and Property Management Division are exploring options to relocate the Elbe Hills ORV campground. The current site is located adjacent to a forested wetland within Northern Spotted Owl (NSO) movement habitat in the Elbe Hills Spotted Owl Management Unit (SOMU). This SOMU is below threshold. If a new campground is built, the current site will be abandoned then reforested. The preferred relocation site is approximately 1.5 miles north of the present location in an area designated as unknown habitat. A FRIS level inventory survey has been requested to determine the actual habitat status. The stand will most likely be non-habitat as it is a relatively young plantation with high stocking. The new campground will only be built once the inventory has been conducted and the unknown stand is determined to be non-habitat.

Expanding the current day use area adjacent to the current campground is a third element to this project. To do so will require the clearing of up to 0.2 acres of area designated as NSO movement habitat adjacent to an existing road and parking area (see attached map). The area to be cleared would involve the removal of 20 trees comprised of Douglas-fir, Western Red Cedar, Western Hemlock, and Red Alder. The largest trees to be removed are three Douglas-fir trees with diameters of 50, 32, and 28 inches. The remaining trees to be removed range in diameter from 24 to 4 inches.

**Discussion:** The abandonment of the current Elbe Hills ORV campground in contiguous designated NSO movement habitat will result in a positive impact to 3.8 acres of movement habitat by removing the human structures and dispersed camping out of the larger campground and rehabilitating the site so it can develop into more functional habitat. In the short-term there will be no net change in the area designated as NSO movement habitat or area identified as actual habitat.

Benefits of moving the site:

- Removes camping and ORV associated use from the edge of a forested wetland.
- Moves a campground in NSO movement habitat to an area of non-habitat (relocation site will be in non-habitat)
- Places users closer to trail system.

- Enables Recreation Managers to design the ORV campground to a modern standard
- Will remove all structures (tables, fire-rings, signage, outhouse and log shelter) abandon the road and parking area and re-forest the site.
- Enable the ~4 acres of current designated NSO movement habitat to be rehabilitated so it will eventually function as such.

Negatives of moving the site:

- Will result in more traffic up the 9 road past the large forested wetland and require the gravel road to be upgraded and more regularly maintained.
- Will result in a 0.2 acre reduction of an isolated wedge of designated NSO movement habitat between the 8 and 9 roads (see attached map) for parking area.

Benefits of expanding day use area in current location:

- Places day use parking close to existing trail system, minimizing ORV traffic on road system;
- Area already impacted by two roads and cleared areas;

Negatives of proposed expanded day use location:

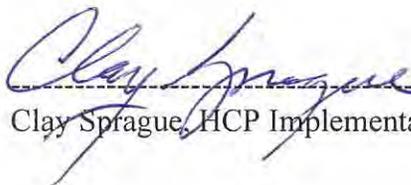
- Clears 0.2 acres of designated NSO habitat

Alternatives to this location for expansion of day use area were considered but rejected due to:

- Distance from the trail system resulting in excess ORV traffic on road system,
- Near-by areas in non-habitat excessively wet,
- More clearing of NSO designated habitat than recommended proposal

Please contact me if you have any questions or need any additional information. If you concur with this proposal, please sign below.

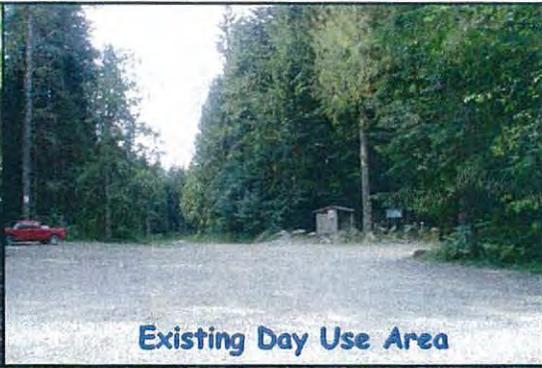
Thank you.

  
-----  
Clay Sprague, HCP Implementation Manager

11/7/13  
-----  
Date



Interior of Habitat Wedge



Existing Day Use Area



Wedge of NSO Habitat



Adjoining Stand of Unknown Habitat



Wedge surrounded by road on 2 of 3 sides



Elbe Hills ORV Campground





DRAFT



# Elbe Hills 4X4 Day Use Area Improvement Close-up



Existing Campground

Forested Wetland

Existing Day Use Area

Proposed Day Use Expansion

ATV PARK RD

92

92-1

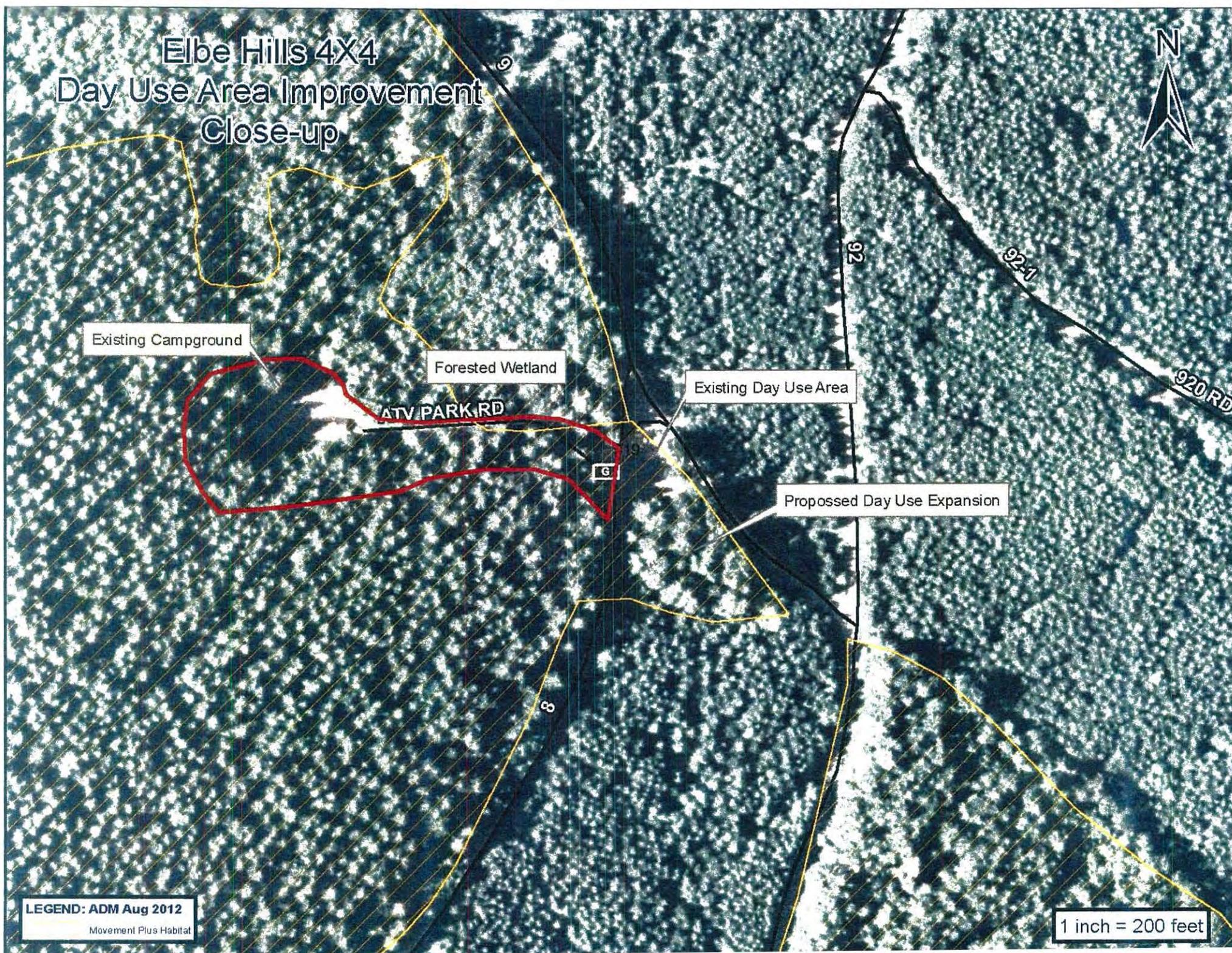
920 RD

G

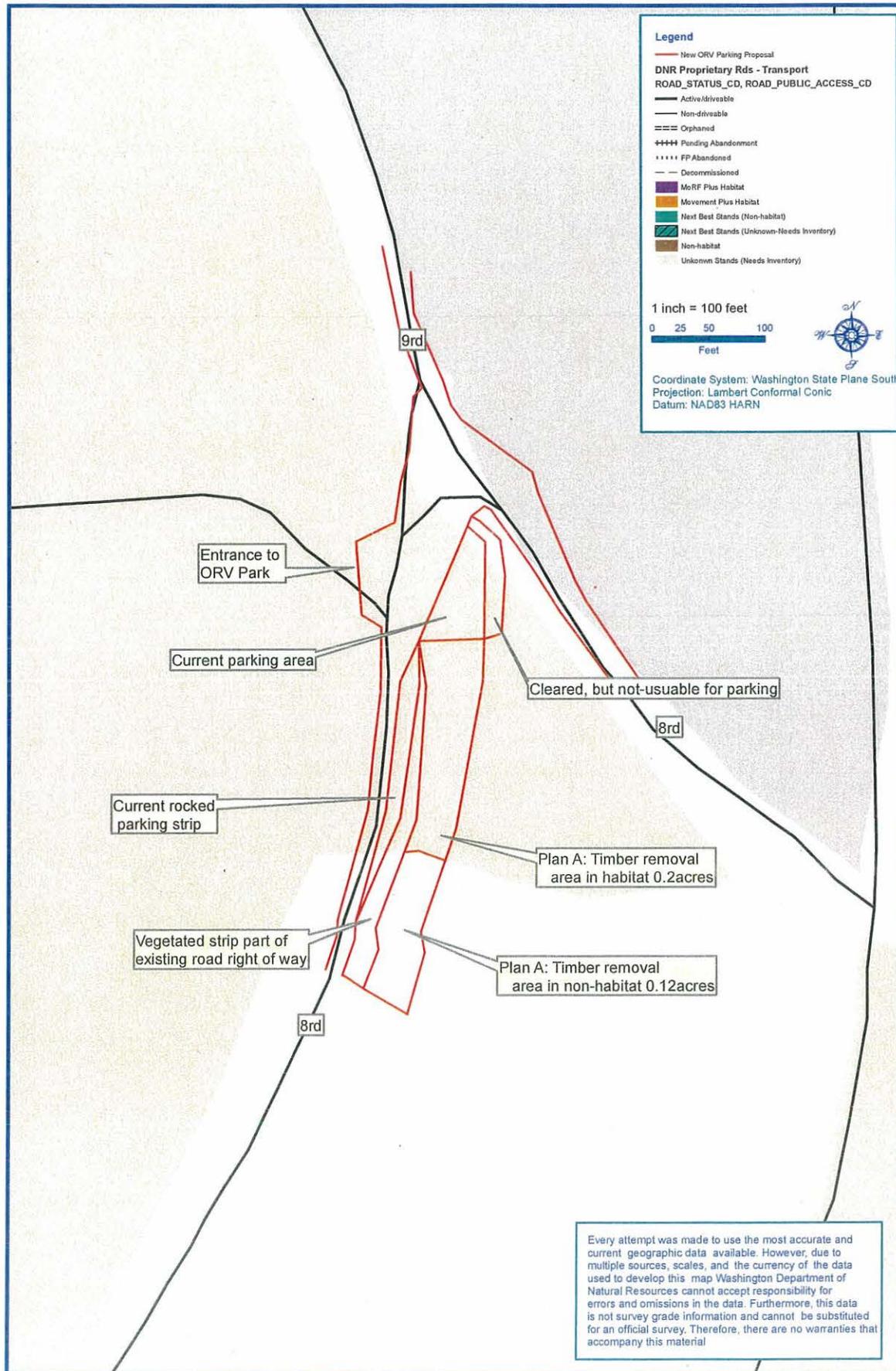
8

LEGEND: ADM Aug 2012  
Movement Plus Habitat

1 inch = 200 feet



# Plan A: Timber Removal For ORV Parking Area





January 7, 2013

TO: Clay Sprague, HCP Implementation Manager

THROUGH: Laurie Bergvall, Northwest Region State Lands Assistant Manager

FROM: Peter McBride, Northwest Region Wildlife Biologist

SUBJECT: Proposed Implementation of Draft Revised Cave Procedure for the Clipper Ship Timber Sale

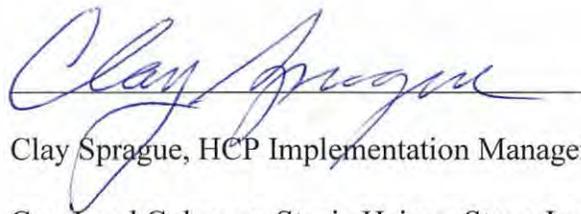
The proposed Clipper Ship timber sale is a two-unit variable retention harvest located near the Whatcom/Skagit county line, in the Hamilton presales unit of DNR's Northwest Region. Unit 2 straddles the county line, being located in section 31 of Township 37 North, Range 6 East, and the closely adjoining part of section 6 of Township 36 North, Range 6 East, on Whatcom and Skagit County State Forest Transfer Lands. On August 30, 2012, I found a small cave while evaluating nearby cliff areas with DNR presales foresters Stacie Heiner and Jared Coleman. The initial assessment and a follow-up visit on October 1, 2012 are described below.

We found the cave entrance amid blocky talus and boulder breakdown near downslope of a small phyllite cliff face (~25' high). The entrance was quite small (~1x1.5') and vertically-oriented, letting into a broad, pyramidal chamber roughly 8'x 9' and 6-7' high at apex; the illumination in this upper chamber ranged from full daylight to twilight. An incomplete partitioning and narrow opening (~1x2') separate this upper chamber from a more vertically-oriented lower chamber, which can be described as a near-vertical prism 8-9' high, 5' wide, and of 1-4' breadth. To one side, part of this lower chamber had a domed roof, forming a small heat trap (~1x2x2'). This lower chamber ranged from twilight to full dark near the bottom. No airflow was noted, nor any pooled water found in cave; no biota were observed beyond a few slugs. The overall volume of this cave is around 300 ft<sup>3</sup>; the dimensions and structural complexity (two chambers) coincide in a provisional typing of a medium value cave following the criteria outlined in the draft revised cave procedure (February 2010).

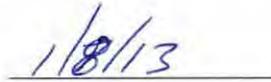
Due to a recently emerging pattern of Townsend's big-eared bats being found using some similar small caves in NW Region, but not during the summer season (roughly May 15-Sep 15), it is important to conduct a follow-up check outside that time window. Accordingly, I returned on October 1 for a fall-season check. No bats were observed during this visit, though about two dozen tissue moths (*Triphosa* spp.) were present. Faint air flow was noted, but otherwise physical conditions were unchanged. With no significant biological observations to modify the provisional typing, the final typing for this cave remains as a medium-value cave.

The cave has been protected per the actions outlined in the draft revised procedure for medium-value caves. A 125' radius no-entry buffer has been established around the cave entrance (this buffer also protects the small phyllite cliff upslope). It was not practicable to avoid all road-building within 250' of the entrance. The ED-7303 is to be constructed just outside the 125' buffer of the cave in order to harvest 10 acres. The ridge that the cave is located just below is a yarding break from the existing ED-73 road which necessitates this spur to this ridge. Due to the topography of the area, this is the only practical location to build this spur. The road will be abandoned back to the ED-73 road at the conclusion of the sale, this point being approximately 300' from the cave. The abandonment will occur by Sept. 30, 2015. The temporary nature of this spur and its near-term abandonment should limit the likelihood of human activity or disturbance in or near the cave.

Please contact me if you have any questions or need any additional information. If you concur with this proposal, please signify with your signature below.



Clay Sprague, HCP Implementation Manager



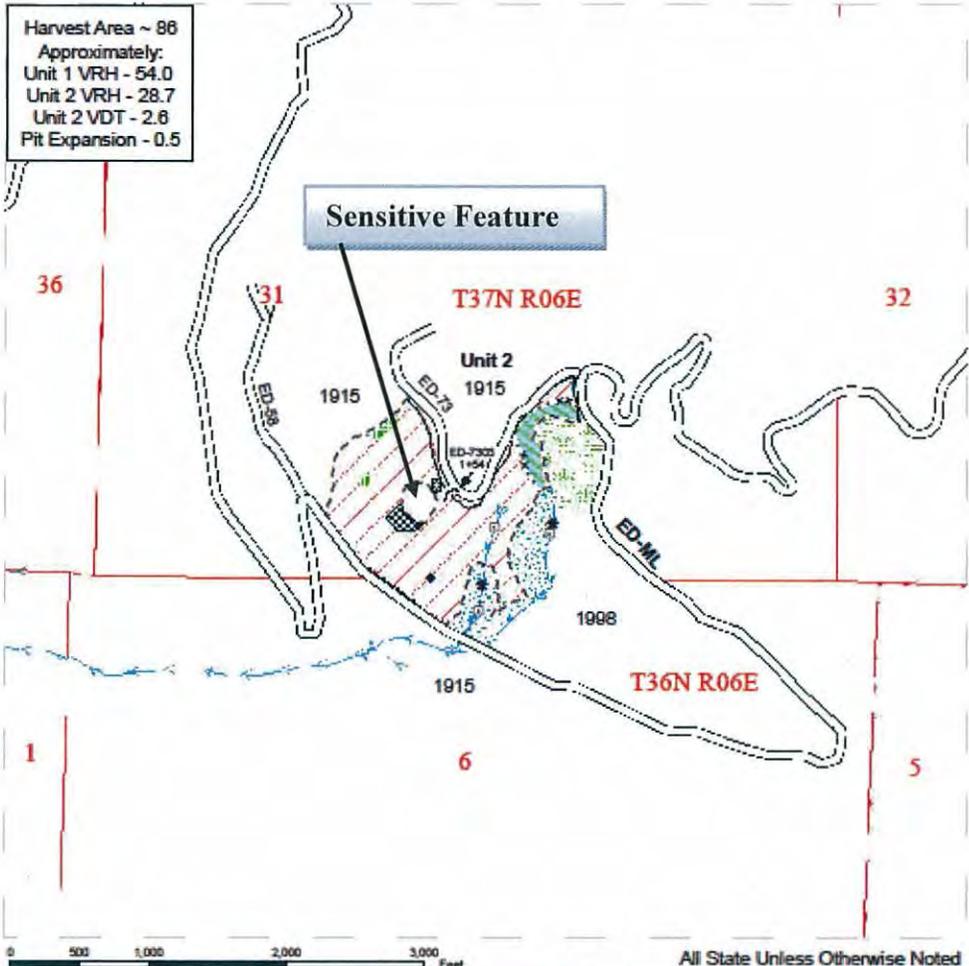
Date

Cc: Jared Coleman, Stacie Heiner, Steve Jennison, Baker District

# TIMBER SALE MAP

**SALE NAME:** CLIPPER SHIP  
**AGREEMENT#:** 89074  
**TOWNSHIP(S):** T37R05E, T37R06E, T36R06E  
**TRUST(S):** State Forest Transfer(1), Common School and Indemnity(3)

**REGION:** Northwest Region  
**COUNTY(S):** SKAGIT, WHATCOM  
**ELEVATION RGE:** 1206-2182



|                   |                        |                               |
|-------------------|------------------------|-------------------------------|
| Sale Area         | Existing Road          | Stream Type                   |
| Leave Tree Area   | Optional Construction  | Stream Type Break             |
| Wetland Mgt Zone  | Required Construction  | Non-Tradeable Leave Tree Area |
| Riparian Mgt Zone | Timber Sale Tags       |                               |
| WMZ Thin          | Sale Boundary (Reprod) |                               |
| Streams           | Special Mgt Area Tags  |                               |
| Existing Rock Pit |                        |                               |
| Survey Corner     |                        |                               |

Prepared By: jcan490

Creation Date: 11/26/2012

Modification Date: 12/19/2012



## Protecting Caves

**Cancels:** PR 14-004-180, dated August 1999

**Date:** February 2010

**Application:** All west-side forested ecosystems managed under the Habitat Conservation Plan, including the Olympic Experimental State Forest Planning Unit.

### Discussion

Caves provide habitat for a number of species of plants and animals, including several species of bats and several rare invertebrates and natural communities. Bats such as Townsend's big-eared bat, long-eared and long-legged myotis, fringed myotis, the Larch Mountain salamander, and several rare snails and slugs may make significant use of caves. Few caves are known on DNR-managed lands. While more are likely to be found during management activities, caves will be rare in most HCP planning units. This procedure is intended to protect the physical integrity of the cave, maintain structure, airflow, and current sunlight regime in order to protect the habitat value of caves.

This Procedure clarifies the biology, assessment, and management of caves as it relates to our HCP commitments. Its goal is to protect known resources. Research may find new cave resources in need of protection.

This strategy for cave protection will protect the habitat value of the cave environment by assessing the biological value of newly-discovered and previously known caves, recording the location of all caves (GIS), and minimizing the impacts of management activities near caves. The following conservation objectives for caves are outline in the HCP (page IV. 154):

1. Maintain the microclimate at the cave entrance;
2. Maintain the physical integrity of cave passages; and
3. Minimize human disturbance to bat hibernacula and maternity colonies.

The habitat value of a cave is based on its biological and physical characteristics. Biological characteristics, such as use by bats or rare invertebrates, are often difficult to assess. Significant use by wildlife is rarely distributed uniformly across years and seasons, so accurate measurement requires several visits over at least two years. Many significant species are hard to identify. On the other hand, physical characteristics of a cave can usually be assessed during a single visit and give an estimate of the biological value. This procedure provides guidance for the protection of the biological value of a cave by maintaining its physical characteristics. Significant characteristics include the microclimate at the cave entrance and within the cave, the physical integrity of cave passages and the level of human disturbance.

In general, a larger cave will have greater habitat value than a smaller cave, but in some cases, a small cave with the proper structure and location will be more significant than a larger cave. Habitat value is assigned to one of three categories; high, medium, or low, and is assessed as follows.

**Physical Characteristics**

For the purposes of this Procedure, a cave is defined as an enclosed space, generally with an opening smaller than its interior dimensions. Cliff overhangs and simple chasms in rock are not caves. Cave volume is more important than any single dimension measure. Volume is hard to measure precisely, but estimates of length, width, and height are adequate. Complexity of a cave is important; a cave with more than one passage or chamber has greater value than a simple structure of equal volume. Thermal traps are domes in the ceiling of a cave that trap warm air, creating habitat diversity. Volume of a thermal trap can be measured by estimating the volume of space that is above the threshold of the chamber. (The threshold is the low point of a chamber that would prevent warm air from draining out of the cave or up the cave to a higher level.) If a cave cannot be explored, air flow from one or more of the cave entrances suggests an elevation difference and a diversity of interior habitats.

| Habitat Value | Primary Factor           | Modifying Factors         |                        |   |                           |
|---------------|--------------------------|---------------------------|------------------------|---|---------------------------|
|               | Volume                   | Complexity                | Thermal trap volume    | Air flow#   | Presence of water*        |
| High value    | 1500 ft <sup>3</sup>     | >4 passages or chambers   | >200 ft <sup>3</sup>   | Significant airflow, sufficient to move paper or dry leaves | Flowing or standing water |
| Medium value  | 200-1500 ft <sup>3</sup> | 2-4 passages or chambers  | 50-200 ft <sup>3</sup> | Minor air flow, barely noticeable                           |                           |
| Low value     | 20-200 ft <sup>3</sup>   | Single passage or chamber | <50 ft <sup>3</sup>    | No air flow   |                           |

#Air flow will vary seasonally. Most caves have strongest airflow in winter or summer.

\*Presence of water is important in an otherwise dry landscape, but not where surface water is nearby.

Collection of data on volume, complexity, and thermal traps requires seeing into the cave. In most cases, a surveyor can look into the cave entrance with a flashlight and see enough to estimate these factors. Most caves within the area of the HCP in Washington are relatively stable, small, and structurally simple. Dangers encountered in gathering information necessary to analyze the habitat value of a cave are different than those encountered in everyday field work but not significantly greater if caution is exercised.

*The most significant caution is not to exceed your comfort level.* When exploring a cave, consider the following safety concerns. If you don't want to go into a cave, don't do so. If you encounter a condition that doesn't appear safe, leave the cave. Ensure positive communication with someone either on site or at the Region Headquarters upon entering and exiting the cave. Initiate your Region's field check-in/check-out procedures. Each surveyor should carry at least two sources of light. While caves within this area are small, many maintain a climate different from the outside. They will be cool in the summer and warm in the winter, so remember to dress appropriately.

Two significant dangers may be present in any cave, small or large. Overhead rock is not always stable. Surveyors should watch for unstable situations and avoid them. Holes in the floor are not always easily visible. Watch the floor carefully and do not walk through water unless you have probed it thoroughly for the presence of holes.

These guidelines apply to the small caves most often encountered in western Washington. Exploring larger caves, including some talus caves, lava tubes in the southern Cascades, and the limestone caves found occasionally in the Cascades require training and knowledge beyond

the needs of this procedure. The habitat value of these caves can usually be estimated from the cave entrance.

**Biological Characteristics**

While biological significance cannot usually be assessed during a single visit, signs of biological use may be visible during any single visit. Single bats may be found in any cave at any time of year. While locally significant, this type of roost site is rarely a limiting resource for bats. Presence of more than a few bats is significant, especially during the winter, or if young are present during the summer. Signs of heavy bat use such as urine stains on the ceiling or walls of a cave or piles of guano will be hard to find but if seen, indicate significant use.

Many caves will contain nests or guano of small mammals such as mice, pika, and porcupines, but caves are probably not a limiting resource for these animals. Signs of use by larger animals such as cougar or bear add interest to a survey and are more significant.

Some research has been conducted on other significant cave organisms including plants, invertebrates, algae, and bacteria. This information is not yet systematic enough to apply across the range of caves found in the area of the HCP.

| Habitat Value | Bat use#   | Significant use by other vertebrates | Presence of significant plant species, plant communities, invertebrates, or other organisms* |
|---------------|--|--------------------------------------|--|
| High value    | >5 bats or ≥ 1 ESA listed/State SOC** bat seen during a visit or other sign of heavy use |                                      | Known presence of significant plants, communities, invertebrates, or other organisms         |
| Medium value  | 1-5 bats seen or sign of bat use   | Signs of use by large mammals        |  |
| Low value     | No bats or sign of use   | Signs of use by small mammals        |  |

\*Information on caves important to plants, plant communities, invertebrates, or other organisms will be provided to the regions as it becomes available to the Natural Heritage Program.

\*\*SOC refers to WDFW's Species of Concern List (includes State Sensitive, Candidate, Threatened and Endangered).

Bats are especially vulnerable to disturbance during the late spring and early summer maternity period (May-July) and during winter hibernation (October-March). If groups of bats are found during maternity times or even single bats are found during hibernation, surveyors should make a quick estimate of numbers and leave the area to avoid excessive disturbance.

**Integration of Physical and Biological Characteristics**

Biological characteristics take precedence where measurable. A cave of 200 cubic feet where 10 bats are seen is of high value. Due to the difficulty of establishing biological significance, assignment of habitat value will generally be based on physical characteristics.

Among physical characteristics, cave volume takes precedence unless modifying factors raise the value. For instance, a cave of 1000 cubic feet with two passages and a thermal trap of fifty cubic feet is of medium value while a cave of 1000 cubic feet with five passages and a thermal trap of 250 cubic feet is of high value.

While this process will apply with relative ease to most caves, the integration of these factors illustrates the complexity of assessing the habitat value of a cave.

If additional field assistance is needed to determine the significance of a cave in question, please contact Ecosystem Services Section.

### **Action**

1. Field locate previously known or recorded caves within 0.25 mile of a management unit/activity. Recorded caves are located on WDFW's Priority Habitats and Species (PHS) GIS layer.
2. Assess biological value of each cave. If entry is necessary and possible, follow the precautions listed above.
3. Determine if proposed management activity occurs within 0.25 mile of a cave. If so, take the following actions.

#### **If a cave is of high value**

- a. Establish a minimum 250 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 100 foot buffer on each side of cave passages. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 0.25 mile of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.
- d. Do not construct roads within 300 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

#### **If a cave is of medium value**

- a. Establish a minimum 125 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 50 foot buffer on each side of the cave passage where surface activity may disturb a cave passage. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 250 feet of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.
- d. Do not construct roads within 150 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

#### **If a cave is of low value**

- a. Establish a minimum 30 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 30 foot buffer on each side of the cave passage where surface activity may disturb a cave passage. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 150 feet of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.

- d. Do not construct roads within 150 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

Obtain region manager approval for all road construction that the region determines to be necessary and that cannot be routed around a cave or cave passage in a practical manner. Inform Ecosystem Services Section if this variance is necessary.

## SPRAGUE, CLAY (DNR)

---

**From:** Mark\_Ostwald@fws.gov  
**Sent:** Friday, February 06, 2009 4:05 PM  
**To:** ESTEP, ALLEN (DNR)  
**Cc:** MIKETA, TAMARA (DNR)  
**Subject:** RE: FW: cave procedure

Hi Allen,  
Sorry it took so long to get back to you. I agree that this procedure is consistent with the HCP. Thanks in advance for adding the information on T & E species.

Mark Ostwald  
U.S. Fish & Wildlife Service  
(360) 753-9564

"ESTEP, ALLEN  
(DNR)"  
<ALLEN.ESTEP@dnr.  
wa.gov> To  
<Mark\_Ostwald@fws.gov>  
CC  
01/27/2009 12:47 "MIKETA, TAMARA (DNR)"  
PM <tamara.miketa@dnr.wa.gov>  
Subject  
RE: FW: cave procedure



January 15, 2013

TO: Bridget Moran, USFWS  
THROUGH: Mark Ostwald, USFWS  
FROM: Clay Sprague, WADNR  
SUBJECT: Table Mountain Fire Salvage

A handwritten signature in blue ink that reads "Clay".

### **Background**

On September 8, 2012 a major dry lightning event hit Chelan, Kittitas, and Yakima counties. In Kittitas County, just north of Ellensburg, Washington, there were over 150 lightning strikes that started 19 different fires in an area known as Table Mountain. These fires grew together into a single incident on September 19, 2012. The Table Mountain Fire impacted 42,312 acres across several ownerships including 9,001 acres of Washington State Department of Natural Resources (WADNR) State Trust Lands in the Naneum Ridge State Forest (NRSF). Within the NRSF there are 4,056 acres designated to provide Nesting, Roosting, and Foraging (NRF) Habitat under the Department's Habitat Conservation Plan (HCP). Of these NRF designated areas, 2,768 acres (68%) were impacted to some degree by the fire.

Initially, about 4,000 acres out of the 9,001 acres were identified as possible areas to be considered for salvage. After field inspection the acreage was reduced to 1,791 acres by removing areas of steep slopes (>40%), areas of minimal damage, Riparian Management Zones (RMZs), areas of expensive road construction, and areas with limited merchantable salvage or dead volume.

Of the 1791 acres to be salvaged, DNR has identified approximately 632 acres of designated NRF (approximately 23% of the total NRF area affected by the fire) with 95%+ mortality that will be salvage logged. Of these 632 NRF designated acres, 172 acres were habitat prior to the fire, 405 acres were non-habitat due to overstocking, and 55 acres were non-habitat or

undetermined habitat. Most of the 632 acres are higher elevation stands (4500 ft.) that are proposed for planting after the salvage to shorten the time it takes for sub-mature habitat to develop. It is unlikely that sub-mature habitat will develop during the remaining life of the HCP in the NRF management areas that have 95%+ mortality. It is also unlikely that salvage logging will have a significant negative effect on sub-mature habitat development (growing the new stand) during the life of the HCP in the areas of 95%+ mortality. However, these areas are proposed for planting as soon as possible after the salvage operation so they will be on a trajectory to become habitat much sooner than if they were not planted. In the NRF areas affected by the fire that did not result in 95%+ mortality, and that will not be salvage harvested, (approximately 77% of the total NRF area affected by the fire), the likelihood of sub-mature habitat developing during the remaining life of the HCP is much higher.

### **Unit Prescriptions for the NRF Designated Lands**

Units 1, 5, 6, 12 and 13 of the Table Mountain Salvage Forest Improvement Treatment Sorts timber sale (see attached map) are located within NRF designated sections, and currently do not meet threshold criteria for NRF habitat due to 95%+ mortality from the fire. As we discussed during our field visit, we intend to retain appropriate levels of snags and large down wood to maintain hard to replicate structure for future NRF habitat. Therefore, in these units, we will require the following retention:

1. An average of 3-9 snags/ac. preferably in the larger diameter classes (30 inches and above in diameter at breast height) and clumped where possible. The actual number will be dependent on actual conditions found in each unit and safety concerns associated with snag retention.
2. Leave preference (in order from most to least preferred) for snags is: Western Larch, Douglas-Fir, Ponderosa Pine, Grand Fir, Engelmann Spruce, Lodgepole Pine.
3. All standing snags that were snags before the fire if safe to do so.
4. All green trees.
5. Snag guidelines are general strategies to maintain critical wildlife habitat. Clumping of snags is encouraged to achieve the desired number per acre. As is always the case, those trees that pose a hazard as defined by Washington State Department of Labor and Industry Standards (L&I) will be felled.
6. A minimum of 2 downed logs per acre will be left postharvest (as per the H-140 contract clause).

The reforestation plan includes approximately 5,000 acres that burned in the fire. Our strategy is to reforest the burned areas with 1,200,000 seedlings over the next three years subject to budget constraints. We will be exploring other funding sources as well. Initial planting efforts will focus on the areas that experienced a stand replacing fire event in NRF designated lands and where timber salvage is planned. The goal for the NRF designated lands is to establish healthy seedlings as soon as possible to get these areas on the road to recovery as quickly as possible.

## Grazing

Grazing has been occurring in the Naneum landscape for over 100 years. The Naneum Sheep Range Permit has been in place for over thirty years with the same permittee. The permit is re-evaluated, updated, and renegotiated on a ten year cycle. The current permit expires on December 31, 2013. During a typical grazing season the turn out period is from July 1 to October 1 (three months). Authorization to graze the permitted range is done on an annual basis every spring through a "Letter of Validation".

The permittee must operate within the sideboards of the Resource Management Plan (RMP). Currently the permittee is required to have a herder with the sheep 24/7; meet the utilization standards set in the RMP; adhere to a specific grazing route to ensure that the sheep are kept moving and not holding-up in any one area for an extended period of time; and sensitive areas and water resource are identified in advance to ensure they are adequately protected.

One option that the DNR has used successfully in the past is to temporarily remove a specific area in the permit through the annual "Letter of Validation." This allows the permittee to use the unaffected portion of the allotment while addressing the area/resources of concern. We are confident that an acceptable grazing rotation can be worked out between the parties when considering the size of the permit range (19,500 ac). We will be working with our permittee within his Resource Management Plan (RMP) to address those areas where reforestation takes place.

## Summary

The objectives of conducting salvage operations in the NRSF are twofold. Recovering some value from the areas impacted by the Table Mountain fire will help offset costs associated with planting the NRF management areas that were subjected to 95%+ mortality which, in turn, will speed the development of suitable spotted owl habitat in those areas. In conducting this fire salvage, DNR will minimize the harvest of live trees and will maximize and clump the retention of large, safe, preferred species of trees to provide legacy snags and down wood for the future stands. DNR believes that the course of action described above will not adversely impact the HCP conservation strategies nor increase the amount of time that suitable sub-mature spotted owl will develop in the NRF management areas that were impacted by the fire.

If you are in concurrence with this approach, please sign below.



\_\_\_\_\_  
Bridget Moran, USFWS

Date: Jan 23, 2012



High Creek Drainage



High Creek Drainage



Upper Naneum Basin

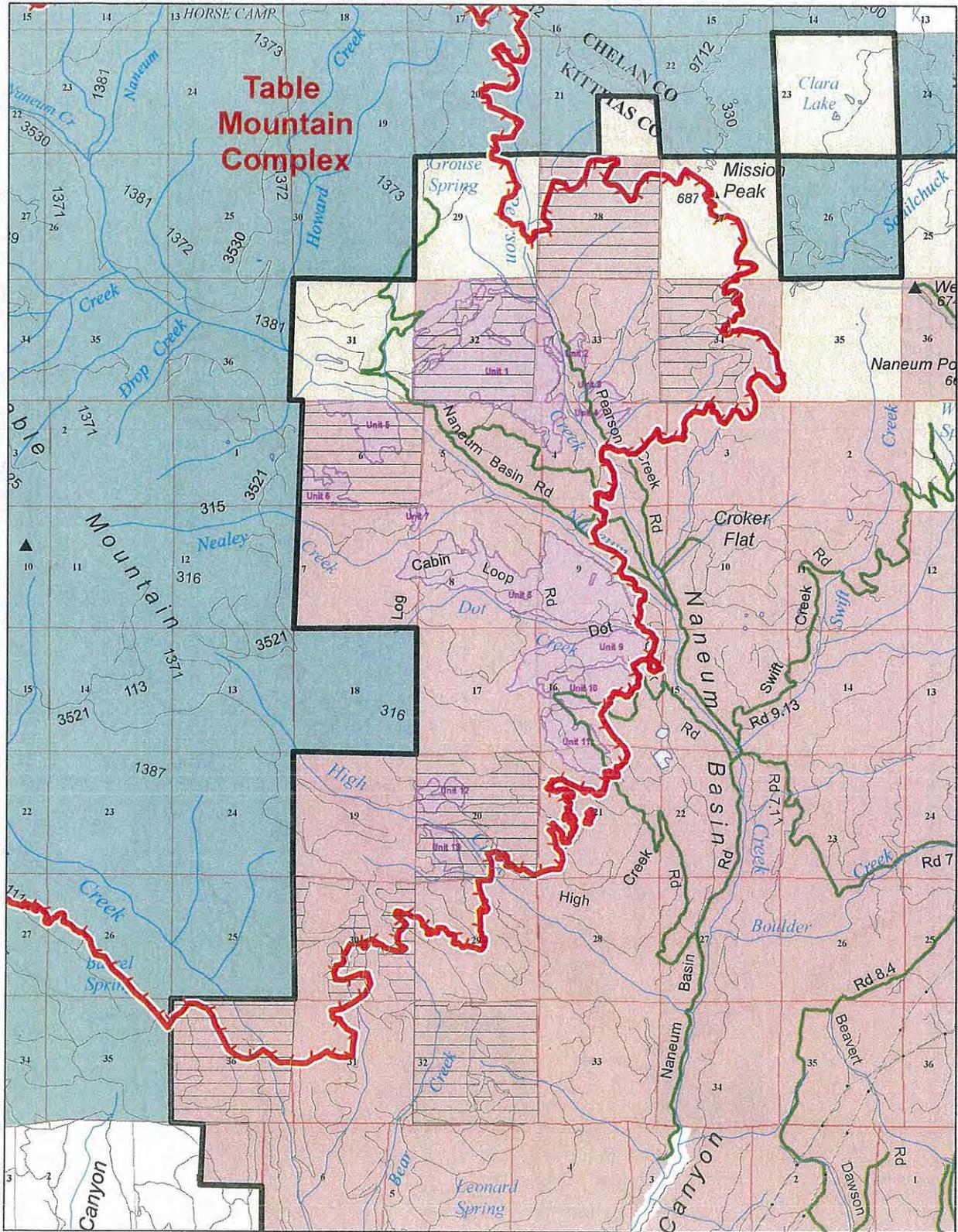


Upper Naneum Basin



Upper Naneum Basin

# Table Mountain Complex Impact on Naneum Ridge State Forest



**Table Mountain Complex Fire Impact on Naneum Ridge State Forest**

- Fire Perimeter 10/3/12  
9,001 Acres of DNR Land within the Fire Perimeter
- Currently NRF Designated Land  
4,056 Acres of NRF Designated Land in the Planning Area  
2,768 Acres of NRF Designated Land within the Fire Perimeter
- Table Mtn Salvage

Every effort has been made to ensure the accuracy of the map. However, due to changes in ownership and the need to rely on data from outside the agency, the Department of Natural Resources cannot accept responsibility for errors or omissions. Therefore, no warranties accompany this material.

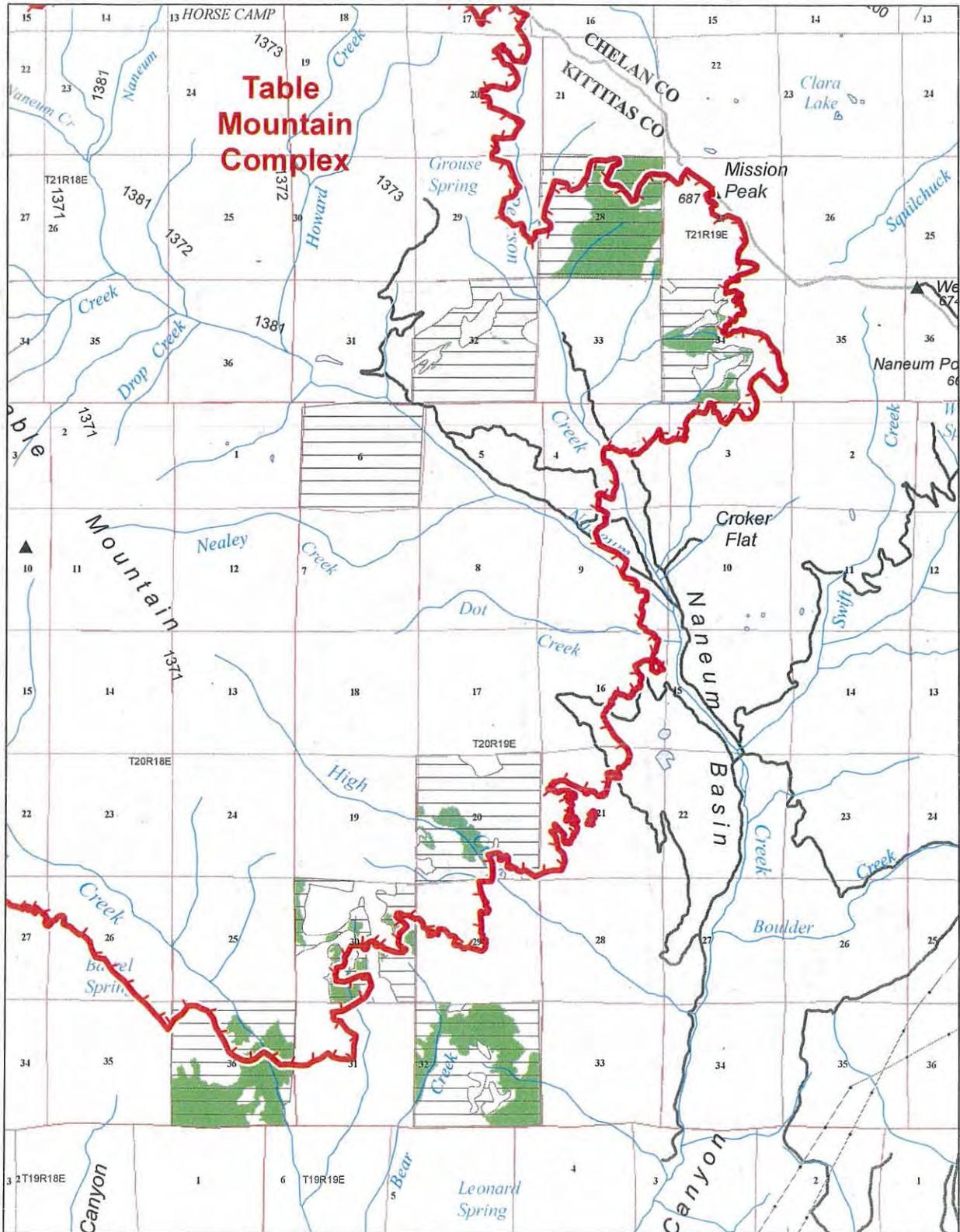


- DNR-Managed Lands
- WA Dept of Fish & Wildlife
- US Forest Service

November 20, 2012

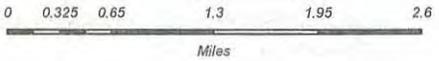


# Table Mountain Complex Impact on NRF Lands



**Table Mountain Complex Fire Impact on NRF Lands**

-  Fire Perimeter 10/3/12  
9,001 Acres of DNR Land within the Fire Perimeter
-  Currently NRF Designated Land  
4,058 Acres of NRF Designated Land Shown on the Map  
2,768 Acres of NRF Designated Land within the Fire Perimeter
-  Sub-Mature Habitat on NRF Designated Land  
1,307 Acres of Sub-Mature (NRF) Habitat Shown on Map  
678 Acres of Sub-Mature (NRF) Habitat within the Fire Perimeter



December 10, 2012

Every effort has been made to ensure the accuracy of this map. However, due to changes in ownership and the need to rely on data from outside the agency, the Department of Natural Resources cannot accept responsibility for errors or omissions. Therefore, no warranties accompany this material.



MEMORANDUM January 15, 2013

**To:** Clay Sprague, HCP Implementation Assistant Division Manager

**Through:** Dave Lorence, South Puget Assistant Region Manager

**From:** Alan Mainwaring, South Puget Sound Region Wildlife Biologist

**Subject:** NUTHATCH TIMBER SALE CONSULTATION- REQUEST FOR ROAD CONSTRUCTION THROUGH NSO MOVEMENT HABITAT

**Issue:** South Puget Sound Region proposes to construct approximately 700 feet of road through NSO Movement Habitat to access the Nuthatch VRH Timber Sale.

**Background:** The approximately 86 acre Nuthatch VRH Timber Sale is located in the DNR's Habitat Conservation Plan (HCP) South Puget Planning Unit in portions of T14N R6E, Sections 16,17,20 and 21. The sale is located in the Tahoma Spotted Owl Management Unit (SOMU) in a designated Northern Spotted Owl (NSO) Dispersal Management Area (*see attached vicinity map*). The Tahoma SOMU is at 16.97 % habitat threshold. The DNR manages these landscapes under its Habitat Conservation Plan (Sept. 1997), the Settlement Agreement (Sept. 2004) and a Modified Dispersal Habitat Strategy Concurrence Letter (Dec. 2009).

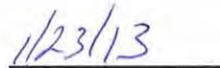
**Discussion:** The Nuthatch VRH Timber Sale is located in a conifer stand of Non-habitat (please review the attached map for reference (Appendix A). Access to the sale is needed through an isolated 15 acre polygon of NSO Movement Habitat. This road will be approximately 5,000 feet long of which 700 feet will bisect the Movement Habitat resulting in a linear gap approximately 0.9 acres in size (right-of-way area). Alternate routes were considered but determined to have greater ecological limitations and impacts due to unstable landforms (see Appendix B). In addition to accessing the Nuthatch VRH Timber Sale, this road will provide access to approximately 350 acres of forest land.

The portion of the road through the NSO Movement Habitat will be constructed to the minimum width possible (*50 feet where possible, 60 feet where needed for steep side slopes*), and remove as few trees as possible while allowing for safety and road maintenance requirements. In addition, during clearing of the right-of-way through the habitat polygon, 10 of the largest diameter trees to be removed will be placed just outside the right-of-way as coarse woody debris. South Puget Sound Region will also create 10 snags in the habitat polygon. The entire 15 acre polygon that the road goes through will continue to be designated as NSO Movement Habitat.

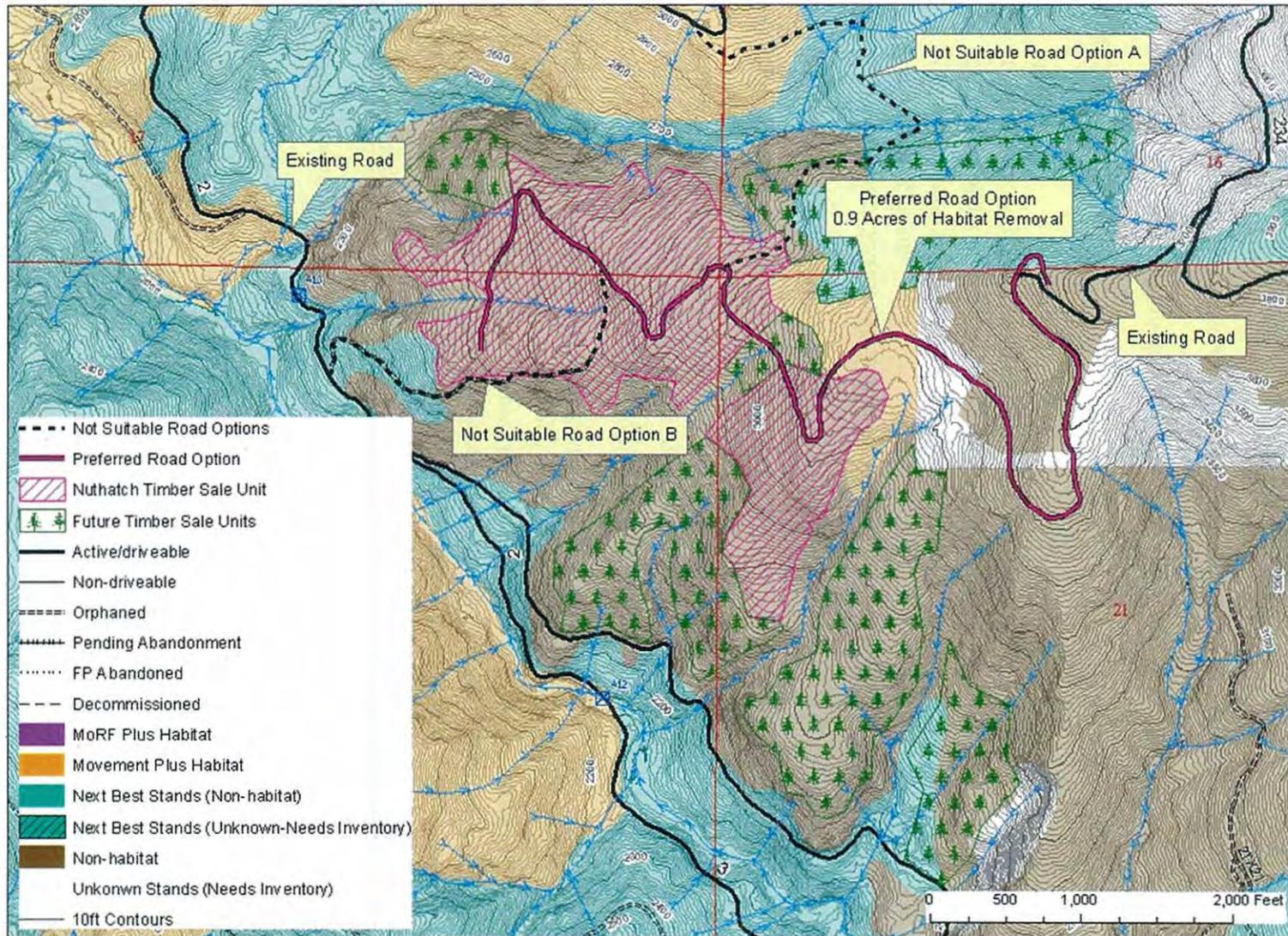
Please contact me if you have any questions or need any additional information. If you concur with the request, please sign below.

Thank you.

  
\_\_\_\_\_  
Clay Sprague  
HCP Implementation Manager

  
\_\_\_\_\_  
Date

# NUTHATCH TIMBER SALE ROAD CONSTRUCTION JUSTIFICATION MAP



01/09/2013

Alan Mainwaring

## Appendix B

### Nuthatch Timber Sale Road Construction Justification

Date: 11/20/2012

To: Alan Mainwaring (SPS Region Biologist)

From: Roslyn Henricks (Elbe Unit Forester 1)

Please refer to the attached map.

#### Preferred Road Option:

This road was the chosen design to access the Nuthatch Timber sale after looking at two main alternatives. This road is around 5000 feet in length, with 700 feet passing through what has been classified as NSO Movement Habitat. This route is preferred as it avoids Forest Practice rule identified landforms and high hazard stream crossings and was the preferred location of DNR engineers and geologists. Once constructed, the preferred road will result in the following:

- Removal of 0.9 acres of timber from NSO Movement Habitat.
- Allow operational access to ~200 acres of future proposed timber sales.
- Enhance management access for ~350 acres of forest land.

#### Not Suitable Road Option A:

This road option was not the preferred route for the following reasons:

- It passes through 900 feet of classified NSO Movement Habitat (a previously thinned habitat enhancement stand).
- It passes through 1700 feet of designated Next Best lands.
- It is within the buffer of a delineated suitable marbled murrelet polygon.
- It must cross two potentially unstable stream formations, and along a section with >70% side slopes.

#### Not Suitable Road Option B:

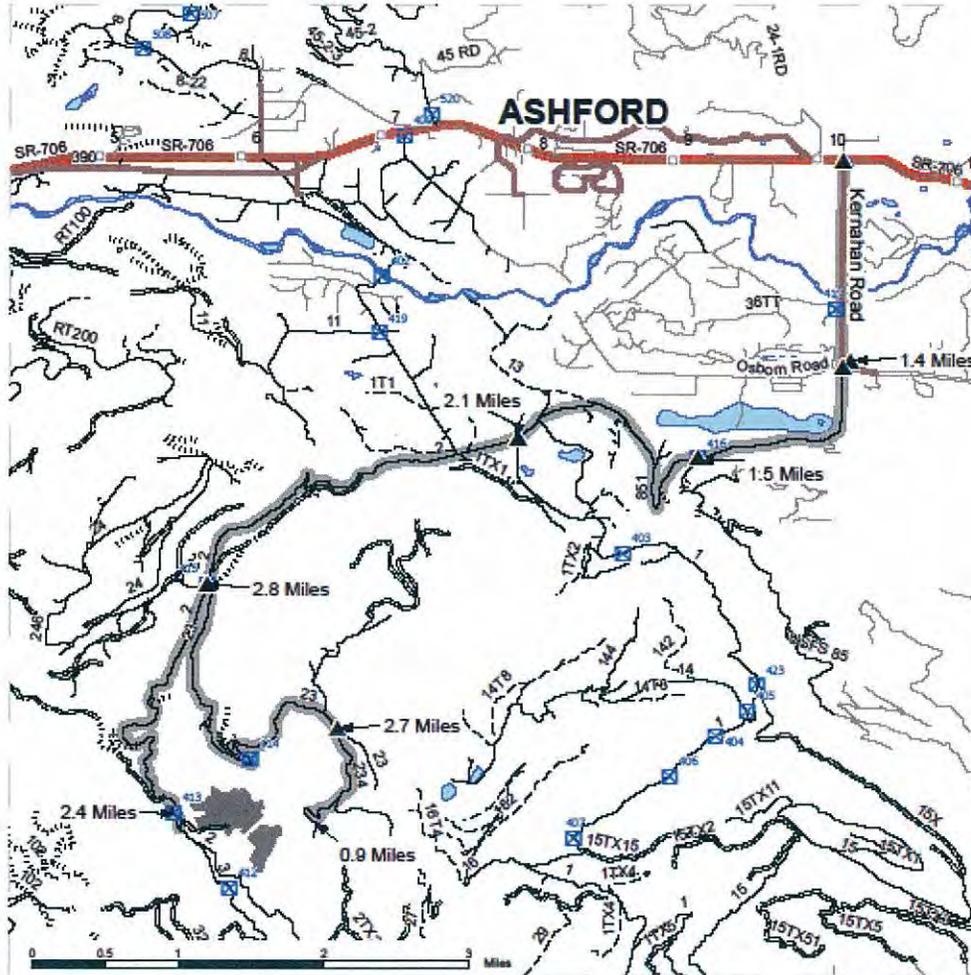
This road option was not the preferred route for the following reasons:

- It follows an old cat trail with an operational grade of around 28% favorable (steep).
- The cat trail has initiated past shallow slope failures, and runs immediately adjacent to other potentially unstable landforms with delivery potential.

**VICINITY MAP**

**SALE NAME:** Nuthatch  
**AGREEMENT#:** 30-088187  
**TOWNSHIP(S):** Township 14 N, Range 06 E.  
**TRUST(S):** 01, 03

**REGION:** South Puget Sound  
**COUNTY(S):** Lewis  
**ELEVATION RGE:** 2,477 - 3,037 feet



|   |  |
|---|--|
| <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: grey; margin-right: 5px;"></span> Timber Sale Unit</li> <li><span style="display: inline-block; width: 15px; border-bottom: 2px solid red; margin-right: 5px;"></span> Highways</li> <li><span style="display: inline-block; width: 15px; border-bottom: 2px solid grey; margin-right: 5px;"></span> Driving Route</li> <li><span style="display: inline-block; width: 10px; height: 10px; border: 1px solid black; margin-right: 5px;"></span> Milepost Markers</li> <li><span style="display: inline-block; width: 10px; height: 10px; border: 1px solid blue; margin-right: 5px;"></span> Gates</li> <li><span style="display: inline-block; width: 10px; height: 10px; border: 1px solid orange; margin-right: 5px;"></span> Other Road Barriers</li> </ul> | <p><b>DRIVING DIRECTIONS:</b></p> <p>Access via the 2 Road. Turn off Hwy 706 onto Kemahan Road and travel as follows:</p> <ol style="list-style-type: none"> <li>1. Right on Kemahan Road for 1.4 miles</li> <li>2. Right on Osborn Road then immediately left on Forest Service Road 85 for 1.5 miles</li> <li>3. Right on Catt Creek Road for 2.1 miles.</li> <li>4. Continue straight on the 2 Road for 5.2 miles to gate 413. A CJ-18 key is needed to open.</li> <li>5. Unit 1 is located 0.1 miles past the gate about 500 feet up a steep slope.</li> </ol> <p>Access via the 23 Road. Turn off Hwy 706 onto Skate Creek Road and travel as follows:</p> <ol style="list-style-type: none"> <li>1. Same as above for step 1-3.</li> <li>2. Continue straight on the 2 Road for 2.8 miles to the 2/23/24 Road junction.</li> <li>3. Go left up the 23 Road for 2.7 miles (at 1.5 miles go through gate 414, an SPE-4 key is needed).</li> <li>4. At the 23/234 Road junction, go right and follow for 0.9 miles until the road ends.</li> <li>5. RW 1 starts at the end of the road, and Unit 2 is located 1200 feet downslope.</li> </ol> |
|---|--|

Prepared By: R.Henricks

Creation Date: 11/07/2012

Modification Date: 12/31/2012





February 11, 2013

Public Comments Processing, Attn: FWS-R1-ES-2012-0088  
Division of Policy and Directives Management  
U.S. Fish and Wildlife Service  
4401 N. Fairfax Drive, MS 2042-PDM  
Arlington VA 22203

Subject: Listing Four Subspecies of Mazama Pocket Gopher and Designation of Critical Habitat

To Whom it may Concern:

Thank you for the opportunity to comment on the U.S. Fish & Wildlife Service's proposed listing and critical habitat designation as presented in the Federal Register, I.D. Vol. 77, No. 238/Tuesday, December 11, 2012.

This letter provides comments addressing three different programs within the Washington State Department of Natural Resources (DNR): (1) as a manager of state lands with an incidental take permit and a multi-species Habitat Conservation Plan (HCP) that addresses the northern spotted owl, marbled murrelets, listed species of salmon, and species that rely on uncommon or unique habitats; (2) as a landowner that conducts agricultural activities at the Meridian Seed Orchard and Webster Nursery in order to provide seedlings for reforestation of trust lands; and (3) as a State Agency responsible for promoting conservation and biodiversity through its Natural Heritage Program (WNHP). The WNHP manages site-specific and species/ecosystem-specific information on priority species and ecosystems that are rare or have very limited distribution. Specifically, the WNHP's mandate is to identify which species and ecosystems are priorities for conservation efforts; build and maintain a database for priority species and ecosystems; and share the information with others so that it can be used for environmental assessments and conservation planning purposes.

### **Trust Land Manager - Habitat Conservation Plan**

The proposed Listing and Critical Habitat Designation recognizes the important role that non-federal lands play in protecting the four Thurston/Pierce subspecies of Mazama pocket gopher. It also recognizes the important role that Habitat Conservation Plans play. With respect to the DNR State Lands Habitat Conservation Plan, the department supports exclusion of DNR managed forest lands from critical habitat designation. In the event the four subspecies of Mazama



pocket gopher are listed the department will likely request the addition of these species to the WDNR Incidental Take Permit (ITP) per Section 7 and 12.6 of the Implementing Agreement (Appendix B of the HCP).

### **Landowner Conducting Agricultural Activities**

The following comments focus on the special rules proposed under section 4(d), as described in §17.40 (Special Rules – Mammals) which exempts certain activities in order to encourage continued agricultural uses. As noted in the Proposed Rules (p. 73792), the purpose of exempting these activities is “*to encourage landowners to continue to maintain those areas that are not only important for airport safety, agricultural use, and restoration activities, but also provide habitat for the four Thurston/Pierce subspecies of Mazama pocket gopher*” and that “*the special rule will further conservation of the species by discouraging conversions of the landscape into habitats unsuitable for the four Thurston/Pierce subspecies of Mazama pocket gopher and encouraging landowners to continue managing the remaining landscape in ways that meet the needs of their operation and provide suitable habitat for these four subspecies.*”

However, DNR feels there are unintended consequences of some of the requirements as currently written which may compromise the goal of encouraging continued agricultural use of these areas. Specific concerns are as follows:

1. §14.40(3)(iv) allows planting, harvest, or rotation of crops only “*between November 1 and February 28*” and is not reasonable if the intent is “*to encourage landowners to continue to maintain those areas [for] agricultural use*” and to “*discourage conversions of the landscape into habitats unsuitable for the...subspecies.*” For the vast majority of crops, planting must occur much later in the spring than February 28 and harvest must occur much earlier than November 1. For the forest nursery, operations occur all year, with concentrated sowing and transplanting in April-May and August, and concentrated harvesting of seedlings between December and March. **We suggest that the timing restriction be removed, or modified in a way that is more compatible with normal agricultural practices, yet still protects pocket gophers during their peak breeding and dispersal times.**
2. The wording under the agricultural lands part of §17.40 only permits “*discing of fencelines or perimeter areas for fire prevention control when such activities occur between November 1 and February 28*”. However, on page 73792 of the Proposed Rules, it states “*Some farming activities like tilling or discing, if conducted during certain times of year, can result in individuals being injured or killed. But when adjacent local populations remain intact, Mazama pocket gophers may recolonize disturbed areas and continue to persist in areas that are farmed, grazed, and used for agricultural production.*” This wording seems to acknowledge that allowing normal agricultural operations such as tilling and discing promote the continued maintenance of favorable

habitat on the landscape, despite some risk to individual gophers. Tilling and discing are an important part of growing a variety of crops, including seedlings at our tree nursery.

**We suggest that tilling and discing for crop cultivation be added to the allowable activities for agriculture, and that the November 1 to February 28 timeframe be expanded to accommodate normal agricultural operations (see our comment at 1. above).**

3. Agricultural activities listed include routine farming, seed nursery, or ranching. The operations we are involved in can be better defined to avoid confusion. **We suggest the wording be changed to list “routine farming, orchard, nursery and similar horticultural operations, or ranching.”**
4. The wording allows for maintenance of livestock management facilities (17.40(3)(v)), but there is a need for maintenance of other agricultural facilities as well. **Maintenance of “livestock management” facilities should be broadened to include maintenance of farming, orchard, nursery and similar horticultural operations, or ranching” facilities.**
5. There is an exemption for maintenance of unimproved ranch roads, but there is a need for similar roads in other agricultural settings. **The wording should allow for the maintenance and repair of unimproved agricultural roads.**
6. Control and management of noxious weed through mowing, herbicide application and burning is allowed. In intensive agricultural operations like orchard, nursery, or other similar horticultural operations, it is also necessary to control pathogens through the application of soil fumigants, if other alternatives are unavailable. **We suggest the wording allow for control of “noxious weeds and pathogens through mowing, herbicide and fungicide application, fumigation, and burning”.**
7. In addition to control of vegetation, fertilization is a common agricultural practice. **We suggest the wording (17.40(3)(iv) be expanded to allow “planting, fertilization, harvest, rotation of crops, or other normal farming activities”.**
8. It is unclear why the wording regarding control of vegetation differs between the land uses. For instance, control and management is allowed for “*noxious weeds*” on agricultural land, “*noxious weeds and grass*” on airports, and “*invasive plants and grass*” on private land. **We suggest that the wording be standardized to allow control of “weeds and grass” on all three land categories.**

9. The wording under all three land uses states that use of herbicides must be conducted “*in such a way that nontarget plants are not affected*”. While this is sometimes possible, (e.g. using aminopyralid to kill scotch broom without killing grasses underneath), it may not be realistic as a general requirement. Some of the safest and most commonly used herbicides (e.g. glyphosate) are non-selective. This means that when an area is sprayed, it is not possible to pick and choose which plants are affected. Although we only control vegetation by spraying in specific areas where other options are not practical, we have little ability to avoid nontarget plants in those areas. **We suggest that the language about nontarget plants be changed to encourage landowners to avoid damage to nontarget plants, but not prohibit affecting nontarget plants.**
  
10. The prohibition on heavy equipment is not consistent between the land categories, and the definition of “heavy equipment” is unclear. Also, some of activities necessary to maintain gopher habitat may not be feasible without heavy equipment. The only mention of heavy equipment on agricultural lands relates to maintenance of stock ponds and berms, while under airports and private land it is specified at the top of each section that activities not involve the use of heavy equipment. In the airport section (§17.40(4)), the wording is “*heavy equipment that would crush burrows or compact soils.*” Our experience is that some burrows may collapse just from walking across the ground, so any equipment used to mow or spray would surely crush some burrows that occur near the surface. This leaves us uncertain about the intent of this language. Does this mean that tractors are not allowed under these rules? If so, how are mowing or spraying of large areas supposed to be accomplished? **We suggest that the wording related to heavy equipment be made consistent among land categories, and it be made clear that tractor use is allowed.**
  
11. We have an additional concern about heavy equipment use that is specific to cone production in our “seed nursery” (as it is referred to in the proposed rules). The only way we can reach the tree crowns to collect pollen or harvest our seed crop is with the use of manlifts, which are heavier than most tractors. Although lift use only occurs for short periods in the spring and fall, it is critical to our operation. **We suggest that use of manlifts in seed nurseries be added to the allowable activities.**

### **Washington Natural Heritage Program (WNHP)**

The following comments are based on field surveys for the Olympic pocket gopher (*Thomomys mazama melanops*) conducted in the summer of 2012 by John Fleckenstein, Zoologist. These comments are abbreviated from the report “Survey of Alpine Meadows in the Olympic Mountains for the Olympic pocket gopher (*Thomomys mazama melanops*) and analysis of habitat

distribution and quality” submitted by the Washington Natural Heritage Program to USFWS in January, 2013.

### **Reduction and fragmentation of habitat**

The current known range of the Olympic pocket gopher is less than 80 square kilometers, greatly reduced from the known historical range of several times that size. Within the current range, habitat is highly fragmented. Gophers and gopher mound systems are found in alpine meadows and in disturbed areas on unstable slopes where trees and other woody vegetation are not dominant. Few if any of these habitat patches are over one hectare in size, and most are much smaller. Since pocket gophers are solitary animals and do not share burrow systems, most habitat patches could host, at most, a very small number of animals and they probably host only one animal.

Patches are separated by 100 meters or more of unsuitable forested habitat. It is unknown whether dispersing animals can pass through the forest among these habitat patches, but there is no evidence of gophers inhabiting forest areas.

### **Population size**

Given the extent of the range and the size of habitat patches, total population of Olympic pocket gophers is very unlikely to be over 1000 and is probably under 500.

### **Threats**

Meadows are clearly being invaded by woody vegetation which causes loss of suitable habitat. This invasion is expected to continue and possibly accelerate with predicted levels of climate change. Gophers living around unstable slopes are obviously threatened by landslides and collapse of burrow systems. Coyotes have expanded into high elevation habitats in the Olympic Mountains. Predation on the Olympic pocket gopher has not been documented, but coyotes are known predators on pocket gophers in other parts of the range.

### **Conclusions**

The WNHP plans to survey the remaining area of possible habitat within the range of Olympic pocket gopher in 2013. The survey will include looking for signs of occupancy in forested areas among occupied habitat patches; comparing a series of aerial photographs or other documentation to measure the rate of invasion of woody vegetation into occupied meadows and collecting coyote scat to investigate the possible presence of this gopher predator.

Factors affecting the conservation status of the Olympic pocket gopher are significantly different from those affecting the Thurston/Pierce subspecies. Its status is not, however, significantly different. The Olympic pocket gopher is confined to a very small and fragmented range.

February 11, 2013

Available habitat continues to be reduced by woody invasion. Population numbers are very low, and surviving animals face a theoretical, but likely threat of predation by coyotes.

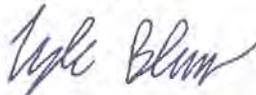
There are a number of questions remaining about the conservation status of the Olympic pocket gopher. Answers to some of those questions should be available by the end of 2013. In the meantime, the determination that listing the Olympic pocket gopher is not warranted is premature.

DNR commends U.S. Fish & Wildlife Service for recognizing the contributions of Habitat Conservation Plans, Conservation Easements, Natural Area Preserves and other conservation measures provided by Federal, State, Tribal, and local agencies as well as private organizations and individuals. We fully support the creation of these Special Rules under section 4(d), and believe that if they are revised to incorporate the suggestions above, they will encourage landowners to continue normal farming and ranching activities, and will be more successful in promoting the maintenance of Mazama pocket gopher habitat.

Through implementation of its HCP and management of its agricultural operations, DNR is committed to continuing a meaningful contribution to protection of the four Thurston/Pierce subspecies of the Mazama pocket gopher on state trust managed lands.

Thank you again for the opportunity to comment on the proposed listing and designation of critical habitat. Please do not hesitate to contact me if you have questions or any of DNR's comments are unclear.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kyle Blum".

Kyle Blum

Deputy Supervisor for State Uplands



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[Feedback and Questions](#)

FWS-R1-ES-2012-0088

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# Your comment was submitted successfully!

Thank you for submitting a comment on the following Proposed Rule:

[Endangered and Threatened Wildlife and Plants: Listing Four Subspecies of Mazama Pocket Gopher and Designation of Critical Habitat](#)

Agency: FWS

Document ID: FWS-R1-ES-2012-0088-0001

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**Endangered and Threatened Wildlife and Plants: Listing Four Subspecies of Mazama Pocket Gopher and Designation of Critical Habitat (FWS-R1-ES-2012-0088-0001)**

## INFORMATION

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Fax Number: 360 902 1783  
Organization Name:  
Submitter's Representative: Clay Sprague  
Government Agency Type: State  
Government Agency: Washington Department of Natural Resources

## COMMENT

See attached file(s)

Attachments:  
Mazama Pocket Gopher Comment Letter 2 11 13.pdf

*Comment Tracking # 1jx-83ma-py8m*



February 28, 2013

To: Clay Sprague, HCP Implementation Manager

Through: Laurie Bergvall, NW Region State Lands Assistant

From: Kevin Killian, Clear Lake District Manager

Subject: Release of suitable, surveyed, unoccupied marbled murrelet habitat for right-of-way harvest.

The United States Forest Service (USFS) has requested from the Department, permission to construct approximately 2550' of new road across Department managed land in the Suiattle River drainage in Section 13, Township 33 North, Range 10 East, within the North Puget HCP Planning Unit. The purpose of this construction is to by-pass a section of an existing road (FS-26 Rd) that was washed-out by the river several years ago. In addition to this location, there are several other locations along this road, all on USFS land, that were washed-out by storm events, that the USFS intends to repair as well. These wash-outs are preventing access by recreationalists and commercial vehicles from utilizing the road to access lands upstream of these wash-outs including the Glacier Peak Wilderness. This memo only concerns that section of road being built on Department managed lands.

The majority of the new road to be constructed will travel through surveyed, unoccupied, suitable marbled murrelet habitat (polygon H3098). A portion of this habitat polygon including the proposed right-of-way was harvested in 2005 in which hardwoods were removed and conifers retained (Prairie Downs NRF PC) after consultation with WDFW determined that it did not meet suitable habitat quality and hardwood removal would benefit the stand objectives. Construction of the road would require harvest of all remaining timber within a 70-80' right-of-way (for a total of 3.2 acres of harvest) in order to accommodate a 2-lane paved road. The polygon is located with the Tenas WAU, which has 11 acres of such habitat available for release for timber harvest under the North Puget Interim marbled murrelet strategy. The standard Procedure for releasing such habitat is as follows: both the previously identified polygon itself and the surrounding area are visited in the field to verify the actual habitat status—using 2 platforms per acre over at least 5 contiguous acres as the definition of suitable habitat. This is the first instance where the Department has used this procedure to release habitat strictly for right-of-way harvest. Thus, we are requesting a consultation for this specific activity and to document our decisions.

In this case, a contractor working for the Department in 2005 verified that H3098 met the definition of suitable habitat, but no habitat delineation work outside of H3098 was conducted. In January of 2013, I conducted a field review to determine if there was any suitable habitat adjacent to H3098 as described in the 2007 NPPU memorandum with the USFWS. My field work discovered 3 separate areas of suitable habitat contiguous to the originally mapped polygon. These areas are shown on the attached map. They are 8, 4.2, and 3.2 acres in size.

Almost all of the proposed new road construction is located either within the originally mapped H3098 polygon or within the survey coverage for H3098. The only portion of the proposed right-of-way that

strays outside of the survey coverage is at the far eastern end of the proposed road location where it joins the existing road. At this point, a very small area (< ¼ acre) will be harvested within a Douglas fir plantation with an origin date of 1976. Extensive field reconnaissance of this area was conducted and no platform trees were discovered within 350' of the proposed new road right-of-way location.

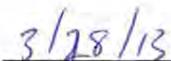
Polygon H3098 was surveyed for murrelets in 2006 and 2007 with no detections. Approximately 1800' to the south of H3098, another suitable habitat block with good quality habitat and an origin date of 1899 was surveyed by WDFW in 1997 and 1998 with no detections. In all, 6 different habitat blocks on Department managed land have been surveyed within the lower Suiattle drainage. None of these sites have been found to be occupied. Murrelet presence was detected in survey site ~ 1 mile to the west of H3098 in a small (~ 2 acre) patch of old-growth adjacent to one of the Prairie Mt. Lakes. This is the only known murrelet use on Department managed lands in the Lower Suiattle Drainage.

In summary, I propose to harvest 4 acres of suitable, surveyed, unoccupied murrelet habitat within polygon H3098 be released for harvest (per the 2009 NPPU release letter) to allow operational access for the USFS to re-route the Suiattle river road (aka 26 Rd). The release of 4 acres should cover any incidental expansion of the planned 3.2 acre right-of-way harvest.

Your concurrence is strictly related to implementation of this proposal, with the Department HCP and the 2007 & 2009 NPPU concurrence letters. It in no way relates to any other approval processes associated with the relocation of the road or any required easement documents. If you concur with this proposal, please sign below.

Thank you.

  
\_\_\_\_\_  
Clay Sprague, HCP Implementation Manager

  
\_\_\_\_\_  
Date



### Suiattle River Road MP 6.0 Map

#### Legend

----- Approx centerline proposed new road

— survey coverage H3098

— Existing Road

#### MM habitat

#### MGTSTATUS

deferred

not occupied

occupied

pending

releasable

released

transferred

Additional Contiguous Habitat





**HCP MARBLED MURRELET INTERIM CONSERVATION STRATEGY (MMICS)**  
**Consultation Request Form**  
**PACIFIC CASCADE REGION**

**Directions:** Consult with 10/19/2012 memo, Marbled Murrelet Management within Southwest Washington to ensure activity is compliant with the MMICS. Provide checkbox answers within this consultation request and if needed a brief description of project. Attached completed document to the list item for the activity in the [SharePoint list](#). Set the 'Request Map' field to 'Yes' for a map showing activity proximity to Marbled Murrelet Habitat Layer to be created.

**Activity Name:** [Twin Bridges](#)

**FMU # (if applies):** [NA](#)

**Activity Type(s):** [Road Abandonment](#) [Tree Removal \(not harvest\)](#)  
 Choose an item. Choose an item.

**District:** [Choose an item.](#)

**Legal:** **Sec. 2, Township9 North, Range5, West**

**Date of Request:** **3/20/2013**

**Project Lead:** [Brett Freeman / Steve Ogden](#)

**Project Lead Phone #** [751-3556](#)

**Date of Approval:** [Click here to enter a date.](#) 3/28/13

**Approval Signature:** 

**Pre-screen requirements:**

|   |                                    |
|---|------------------------------------|
| 1. Project is located <u>in</u> MMMA  | <a href="#">YES</a>                |
| a. Timber Harvest Activity (all harvest types)  | <a href="#">NO (skip to 1.c)</a>   |
| i. Defer from harvest <u>all</u> Reclassified Habitat   | Choose an item.                    |
| ii. Buffer all Occupied MM Sites and Reclassified Habitat with a 165' no-entry buffer; directionally fell timber away from buffer when safe to do so. | Choose an item.                    |
| b. Thinning Harvest Activity  | <a href="#">NO (skip to #1.c.)</a> |
| i. Thinning located within 0.5 miles from an Occupied Site, and outside buffer<br>Description of project: _____                                       | Choose an item.                    |

|  |                                 |
|--|---------------------------------|
| <b>c. Regeneration Harvest Activity</b>  | <b><u>NO</u></b>                |
| i. Leave Trees have been selected to favor MM habitat and Region Biologist has reviewed<br>Description of project: _____   | Choose an item.                 |
| ii. Advanced planting stock will be used to reforest stands. (Plug-6+1)<br>Description of project: _____   | Choose an item.                 |
| iii. Stands will be prioritized for intermediate silviculture treatments. (PCT, Veg Mgt. ect.)<br>Description of project: _____  | Choose an item.                 |
| d. Reforestation, vegetation management, and PCT, within 0.5 miles of Occupied MM Site, within buffer of Occupied sites and Reclassified habitat and within delineated Occupied site and reclassified habitat polygons where stands (generally less than 30 years old) exist.<br>Description of project: _____ | <b><u>NO (skip to 1.e.)</u></b> |
| <b>e. Road Construction, Reconstruction, Maintenance or Abandonment.</b>   | <b><u>YES</u></b>               |
| i. New Road Construction is <u>not</u> permitted within Occupied Sites, Reclassified Habitat or their associated buffers.  | Choose an item.                 |
| ii. Road reconstruction or abandonment within Occupied Sites, Reclassified Habitat or their associated buffers, due to safety or to address adverse environmental conditions.  | <b><u>Applies</u></b>           |
| 1. Cutting of trees <u>is</u> required<br>Description of project: See Attached Memo.   | <b><u>YES (describe)</u></b>    |
| iii. Project is located <u>outside</u> of Occupied Sites, Reclassified Habitat or their associated buffers.<br>Description of project: _____   | Choose an item.                 |
| f. Proposed Land Transactions within MMMA<br>Description of project: _____   | Choose an item.                 |
| 2. Project is located <u>outside</u> of MMMA, and 1) within surveyed, unoccupied Reclassified Habitat, and/or within 0.25 miles of an Occupied Site.   | Choose an item.                 |
| a. Timber Harvest Activity (all harvest types)   | Choose an item.                 |
| i. Located within surveyed, unoccupied Reclassified Habitat.<br>Description of project: _____  | Choose an item.                 |

|   |                        |
|---|------------------------|
| <p>ii. <b>Located within 328' of an Occupied MM Site.</b><br/> Evaluate the application of a buffer for any proposed timber harvest activities.<br/> <u>Description of project:</u> _____</p>   | <p>Choose an item.</p> |
| <p>iii. <b>Located within 0.25 miles of an Occupied MM Site.</b> (Consider timing restrictions for noisy activities including but not limited to: felling &amp; bucking, cable and helicopter yarding, operation of heavy equipment and slash disposal or prescribed burning. This does not include hauling)<br/> <u>Description of project:</u> _____</p>                                | <p>Choose an item.</p> |
| <p>b. <b>All Other Management Activities: Located within 0.25 miles of an Occupied MM Site.</b> (Consider timing restrictions for noisy activities including but not limited to: felling &amp; bucking, cable and helicopter yarding, operation of heavy equipment and slash disposal or prescribed burning. This does not include hauling)<br/> <u>Description of project:</u> _____</p> | <p>Choose an item.</p> |
| <p>3. <b>Activities Related to Non-Timber Resources:</b> All non-timber resources (as defined in HCP) must be compliant with the HCP, including Amendment #2 and this Memorandum.<br/> <u>Description of project:</u> _____</p>   | <p>Choose an item.</p> |

March 20, 2013

TO: Clay Sprague, Assistant Division Manager, HCP and Scientific Consultation  
THROUGH: Bob Johnson, Pacific Cascade Assistant Region Manager  
FROM: Steve Ogden, St. Helens District Manager  
SUBJECT: Review of proposed activity by the HCP and Scientific Consultation Section of FRCD, pertaining to the Marbled Murrelet Interim Conservation Strategy (MMICS). Twin Bridges Removal Project.

#### SUMMARY

The Pacific Cascade Engineering Group is proposing a bridge removal / RMAP project in St. Helens District to address scheduled Road Maintenance and Abandonment (RMAP) work within the Marbled Murrelet Management area (MMMa). The project scope will include: 1) Removal of two large (in excess of 100') bridges that cross the Elochoman River a Type One river. 2) Apply grass seed and straw, and installation of water bars to control erosion and block access road. On the attached map there are two bridges; Bridge #1 is owned by DNR and Bridge #2 is owned by Columbia Land Trust. Both of these bridges were installed for railroad logging, likely in the 1930's. The bridges have become extremely unsafe for travel and due to their condition and location; they are unable to be repaired.

The majority of this project is located within reclassified habitat, within MMMa, and approximately 400' from an occupied murrelet stand. As the Elochoman River is the DNR property line, the MMMa boundary, and reclassified habitat is located on the east side (DNR side) of both bridges.

The work associated with this project would entail only occasional trees to be felled if located adjacent to the bridge approaches to facilitate setting a 360 ton crane to remove the structures, or if safety concerns required their removal. Based on site evaluation, we anticipate approximately 20 trees needing to be cut with this project to facilitate safe operation of heavy equipment. All trees are less than 20" in diameter and are mostly red alder, with some Douglas-fir and western hemlock. All trees cut will remain on site.

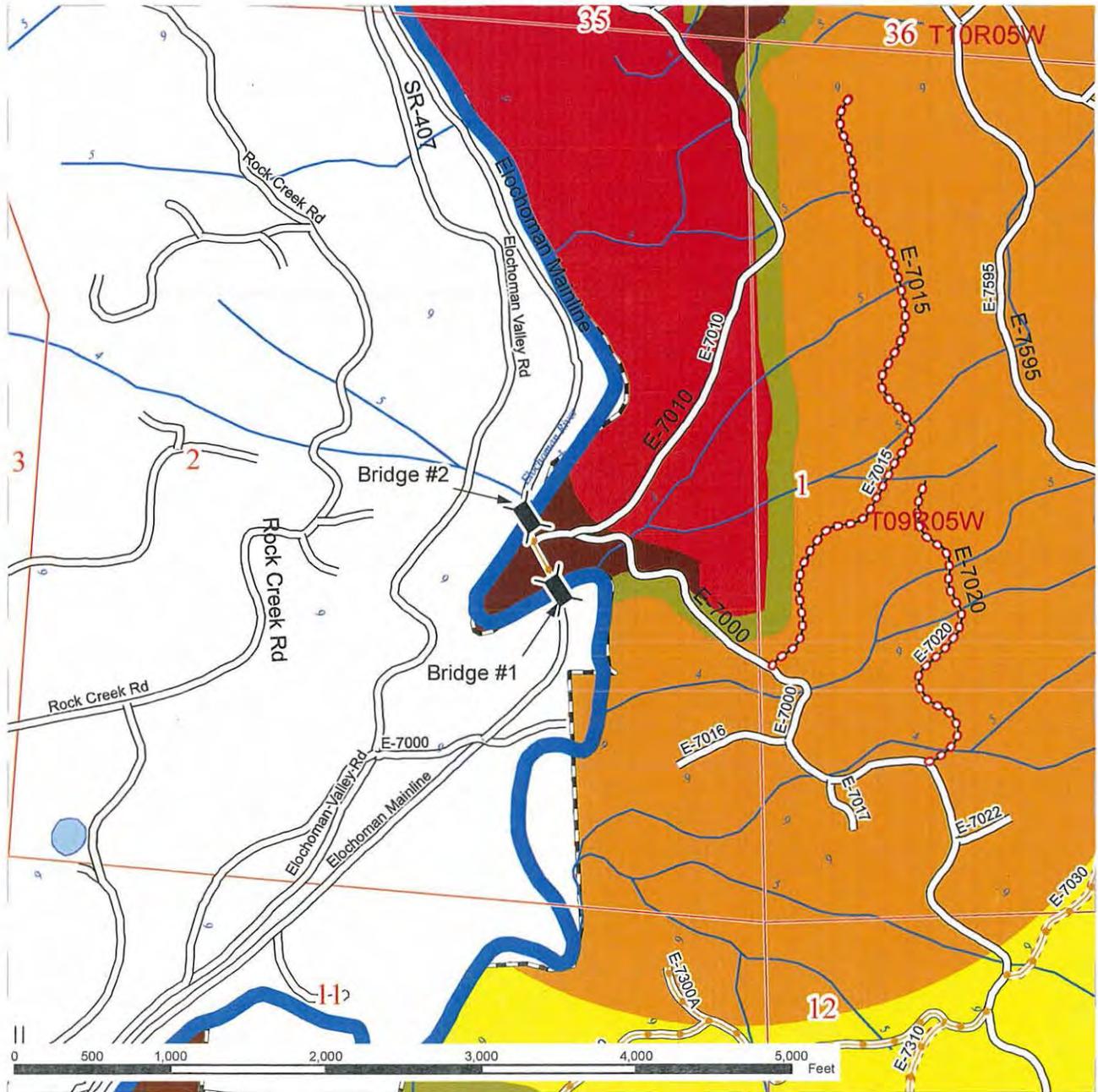
The timing of the project would be between 4/1/2013 and 9/30/2013. As the MMICS does not require Daily Peak Activity timing restrictions within MMMa, we are not proposing use of the DPA restriction.

Please see attached map of the area. This project has not been sent to other regulatory agencies as we are waiting on concurrence with the HCP section.

# Marbled Murrelet Proximity Map

SALE NAME: Twin Bridge Removal  
 AGREEMENT#: NOT APPLICABLE  
 TOWNSHIP: T9R05W

REGION: Pacific Cascade



|  |   |                    |
|--|---|--------------------|
| Murrelet Habitat - SWWA - Deferred Harvest | Consultation Needed                                       | Reforestation Unit |
| Occupied Site                              | Within 1/4 Mile from Occupied, or Contiguous Reclassified | Existing Road      |
| Reclassified Habitat in MMMA               | <u>Not Deferred from Harvest</u>                          | Abandoned Road     |
| 165 Foot No Harvest Buffer in MMMA         | Reclassified Habitat outside MMMA                         | streams            |
| <u>Thinning Activities</u>                 | <u>Released Reclassified</u>                              |                    |
| 1/2 Mile from Occupied Site in MMMA        | Check WAU Threshold                                       |                    |
|  | <u>S. Puget Biologist Data</u>                            |                    |
|  | Potential, Biologist Assessment Needed                    |                    |
|  | Unsuitable  |                    |

Modification Date: 20 Mar 2013





**MEMORANDUM** March 28, 2013

**To:** Clay Sprague, HCP Implementation Assistant Division Manager

**From:** Alan Mainwaring, South Puget Sound Region Wildlife Biologist

**Subject:** NUTTY BUDDY TIMBER SALE CONSULTATION- REQUEST FOR ROAD CONSTRUCTION THROUGH NSO MOVEMENT HABITAT

**Issues:** South Puget Sound Region requests consultation with the Forest Resources & Conservation Division to construct approximately 650 feet of road through NSO movement habitat to access the Nutty Buddy Timber Sale and future NSO habitat enhancement thinnings.

**Background:** The approximately 75 acre Nutty Buddy Timber Sale is located in the DNR's Habitat Conservation Plan's (HCP) South Puget Planning Unit in portions of Section 33, T16N R5E. The sale is located in the Elbe Hills Spotted Owl Management Unit (SOMU) in a designated Northern Spotted Owl (NSO) Dispersal Management Area. The Elbe Hills SOMU is at 37.0 % habitat threshold. The DNR manages this landscape under its Habitat Conservation Plan (Sept. 1997), the Settlement Agreement (Sept. 2004) and a Modified Dispersal Habitat Strategy Concurrence Letter (Dec. 2009).

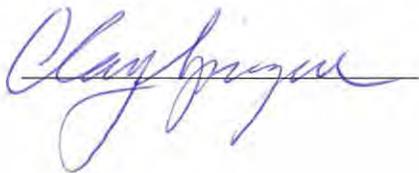
**Discussion:** The Nutty Buddy Timber Sale is located in non-habitat and comprised of second-growth conifer. New road construction is required for this sale to connect to the 8 road. The road system to the northeast accessing this portion of the Elbe Hills State Forest was established when Weyerhaeuser owned and managed the forest. The haul route was built to send timber through their ownership to the north which is still in private ownership and DNR does not have easement. The new road construction will be approximately 4,000 feet long of which 650 feet will bisect a 27 acre polygon of NSO movement habitat resulting in a linear gap approximately 0.7 acres in size. Please review the attached map for reference (Appendix A). This road will also provide access to the approximately 295 acre Dobbs Knob VDT NSO habitat enhancement sale (FY18). Alternative routes through non-habitat were considered. Alternative route #1 was determined to have adverse ecological impacts due to moist soils, seeps and removing acreage from future habitat (approximately 1.3 acres). Alternative route #2 comes in from the north and would require the acquisition of a road use agreement from a private landowner (unknown), an adverse haul up and out of the sale unit and adds approximately 5.1 miles to the haul route around the 83 road system.

**Habitat Enhancement Component:** Virtually no down wood or snags exist in the simplistic second growth stand that makes up the movement habitat polygon. We plan to mitigate for the proposed road construction through this habitat by adding structure in the form of creating 15 snags and felling 30 trees as down wood. The down wood trees will be marked by DNR and felled by purchaser as part of the Nutty Buddy timber sale contract. The snags will be marked and created by DNR. The habitat polygon will not be commercially thinned and will remain NSO movement habitat.

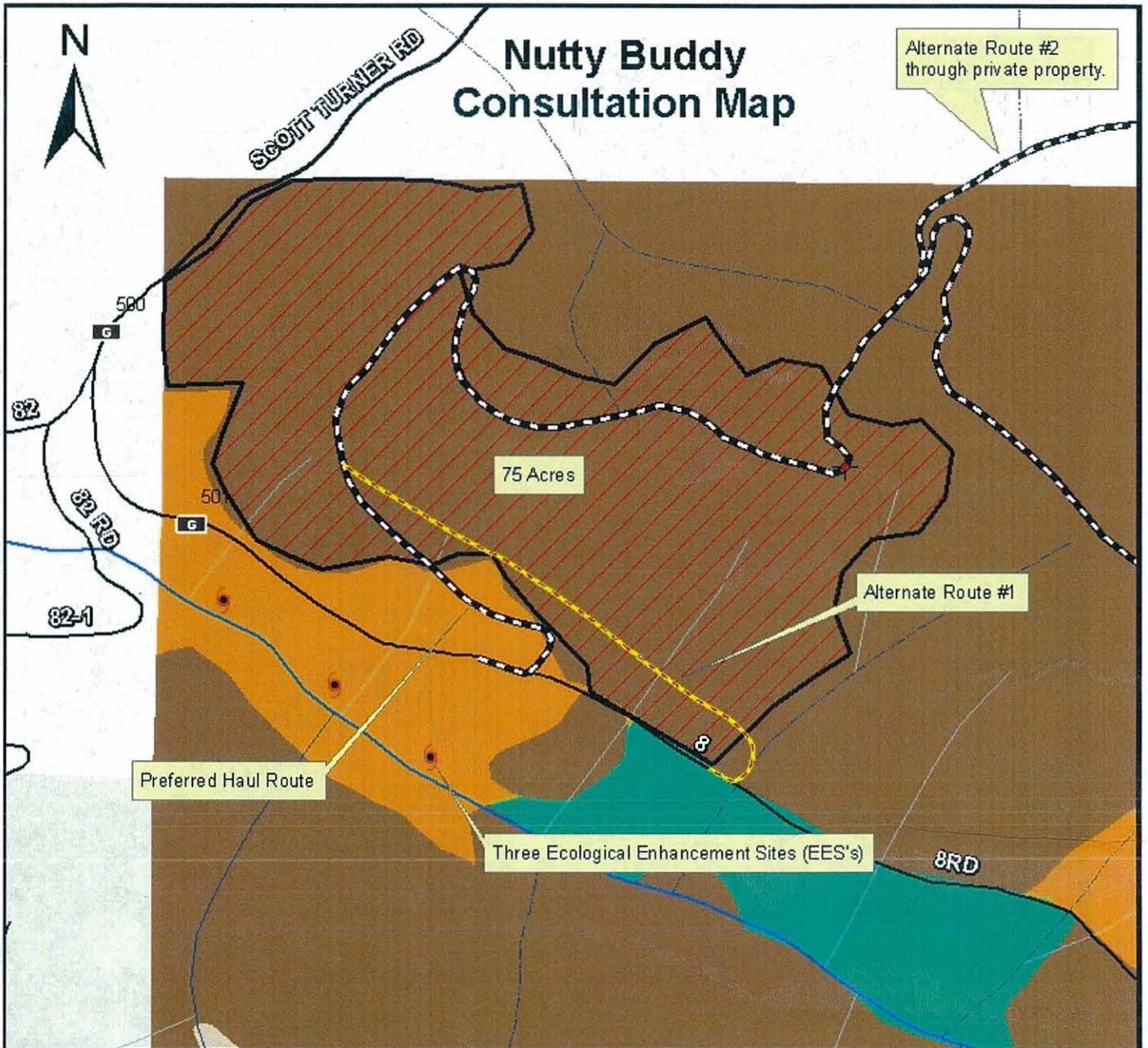
Please contact me if you have any questions or need any additional information. If you concur with the request, please sign below.

HCP Implementation Manager

Date

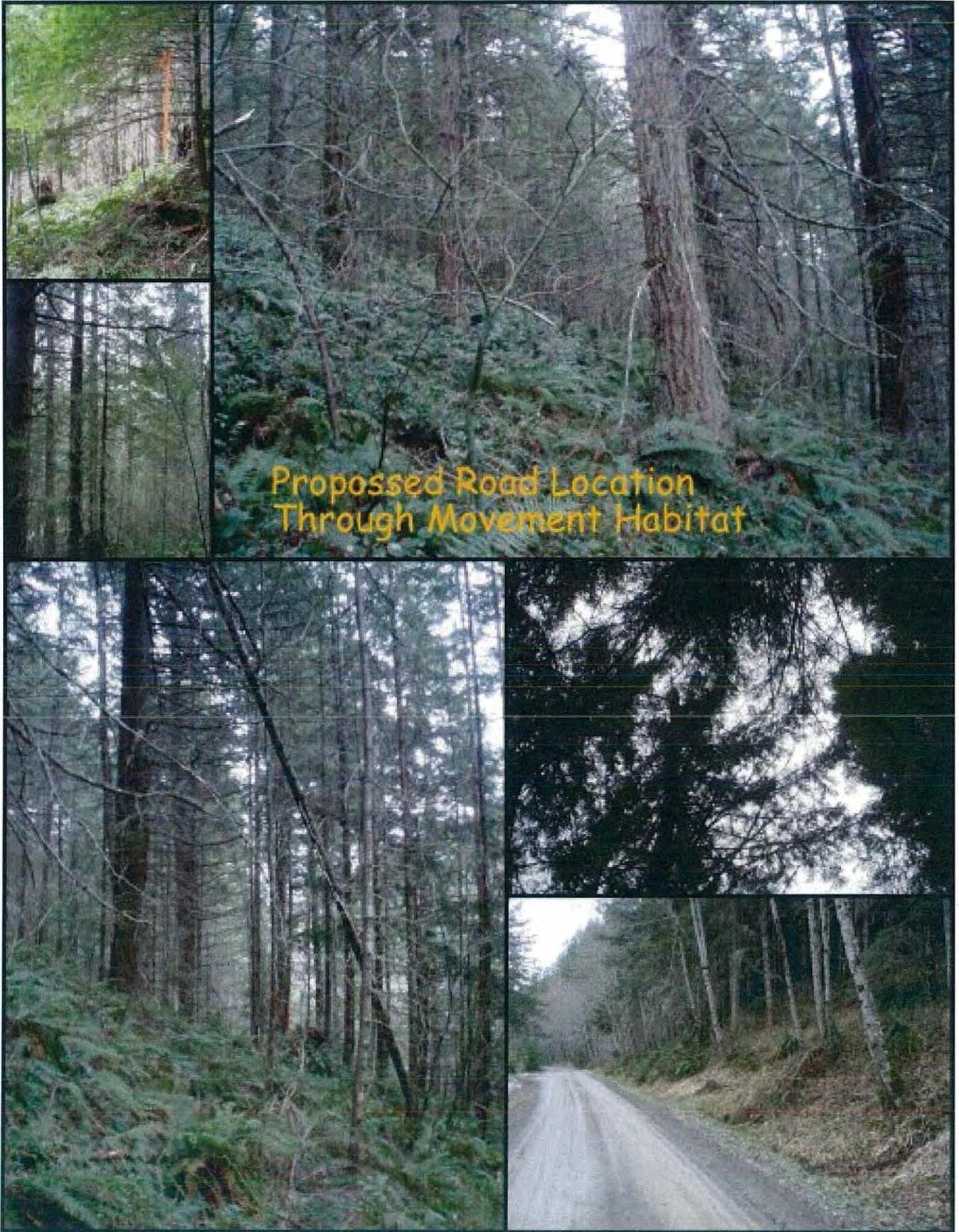


3/28/13



**Legend: ADM March 2013**

- |  |  |
|--|--|
|  Nutty Buddy Harvest Unit     | <b>NSO Habitat Classes: SPS Dispersal</b>  |
|  New_Construction Nutty Buddy |  MoRF Plus Habitat                          |
|  Alternate Road               |  Movement Plus Habitat                      |
|  End of New Construction      |  Next Best Stands (Non-habitat)             |
|  EESs                         |  Next Best Stands (Unknown-Needs Inventory) |
|  |  Non-habitat                                |
| <b>Appendix A</b>  |  Unknown Stands (Needs Inventory)           |
- 1 inch = 500 feet**



**May 3, 2013**

**TO:** Allen Estep, Acting HCP Implementation Manager

**THROUGH:** Drew Rosanbalm; State Lands Assistant Manager - Olympic Region

**FROM:** Scott Horton, Wildlife Biologist – Olympic Region

**SUBJECT:** Harvest of blowdown in and adjacent to a marbled murrelet occupied site

Background: The area of interest is on the north Olympic Peninsula near Sequim, Clallam County, in Section 16 T29N R04W (Figure 1). The North Texas timber sale was prepared and sold in 2008-2009 under department policy that followed the HCP interim murrelet conservation strategy. That policy is mapped in Figure 1 as *LABEL* under *Marbled Murrelet HCP Policy* (see legend in Fig. 1). Subsequently, the department implemented a revised approach to interim murrelet conservation mapped as *Interim Guidance Memo Designations* (Figure 1), which provides guidance for this consultation.

Several areas of recently exposed edge on units of the North Texas sale blew down in winter 2010/2011. Approximately 9 acres of near-complete blowdown are proposed for salvage harvest as Unit 1 of North Texas BD as illustrated in Figure 2. Figure 1 shows the composition of the proposed unit, approximately 4.6 acres are designated as *Interim guidance memo occupied site* and 4.1 acres as *100 meter buffer*.

On-site observations: I visited the site on January 25, 2013 to observe stand characteristics relative to features of murrelet habitat and to conduct a detailed examination of the area proposed for harvest. FRIS data summarize forest characteristics of the proposal area. The proposal area suffered near-complete blowdown, with only scattered standing trees remaining (Figure 4). Both the buffer and occupied site portions of the proposal come from the same stand, RIU 62685: western hemlock/western redcedar/Douglas-fir with an estimated origin date of 1926; 11.7" quadratic mean diameter of live stems  $\geq 4"$ ; 17 stems/ac.  $\geq 20"$  dbh with quadratic mean diameter 24.3"; 126' height of the 40 tallest trees/ac.; and "unlikely" to be an old-growth stand. My observations were consistent with those estimates, the stand is rather typical of simple-structured second-growth on the north Olympic Peninsula. I did not observe any trees with platform structures from my overview perspective along the upper edge of the blowdown as illustrated in a series of photos from my site-visit (see Figures 3 – 5 and their captions).

Proposal: Harvest approximately 9 acres of blowdown consisting of 4.6 acres of occupied site and 4.1 acres of buffer as illustrated in Figure 6. No stable, standing trees will be cut except to construct the southern landing and clear the guyline circle – this will require clearing about half of a 60' radius or approximately 1/10-acre of occupied site buffer. The proposal attempts to avoid or minimize direct impacts to the occupied site as follows. Habitat loss will be avoided by only salvaging blowdown from within the occupied site. Impacts to habitat quality will be minimized by only salvaging blowdown from within the buffer, except for around the southern landing as described above. Direct disturbance to potentially nesting murrelets will be avoided by locating all landings, tailholds, and lines at least 50' from platform-bearing trees. Indirect disturbance to potentially nesting murrelets will be avoided by restricting activities during the daily peak activity period within the murrelet's critical nesting season.

If you concur that this proposal is consistent with HCP Conservation Strategies and other Department Procedures and that DNR may proceed, please sign below.

In addition to Scott's evaluation, myself, Scott Horton, Brian Turner and Mark Ostwald of the USFWS made a site visit on May 1, 2013. Mark supports our salvage efforts and harvest of several trees to facilitate safe yarding activities (i.e. guyline circle).

A handwritten signature in blue ink, appearing to read "Allen Estep", written over a horizontal line.

Allen Estep, Acting HCP Implementation Manager

A handwritten date in blue ink, "5-7-2013", written over a horizontal line.

Date

Figure 1. The area of interest and its surroundings, showing DNR-managed lands (shaded pink), the completed North Texas timber sale, the proposed blowdown salvage, and land classifications under DNR's Interim Marbled Murrelet Strategy (see legend), T29N R04W Section 16, Clallam Co., WA.

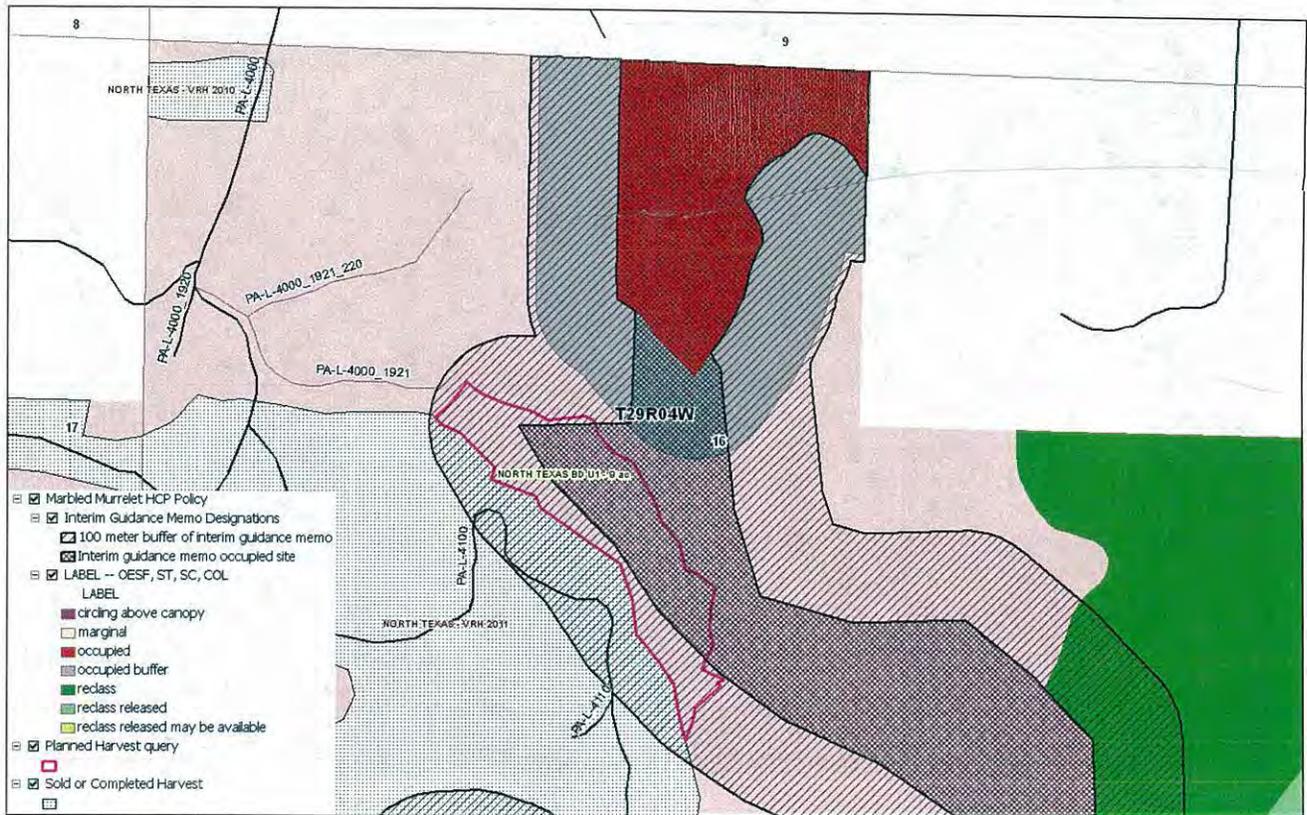


Figure 2. The same view as Figure 1 displayed on aerial photography from summer 2011. Note the near-complete blowdown in the proposed unit.



Figure 3. View of the southern corner of the blowdown proposed for harvest (note the old boundary tag on the tree in the center foreground). This area is within the occupied site buffer and is proposed as the southernmost of three landings for the unit. This landing and its guyline circle is the only portion of the proposal where standing trees must be cut.



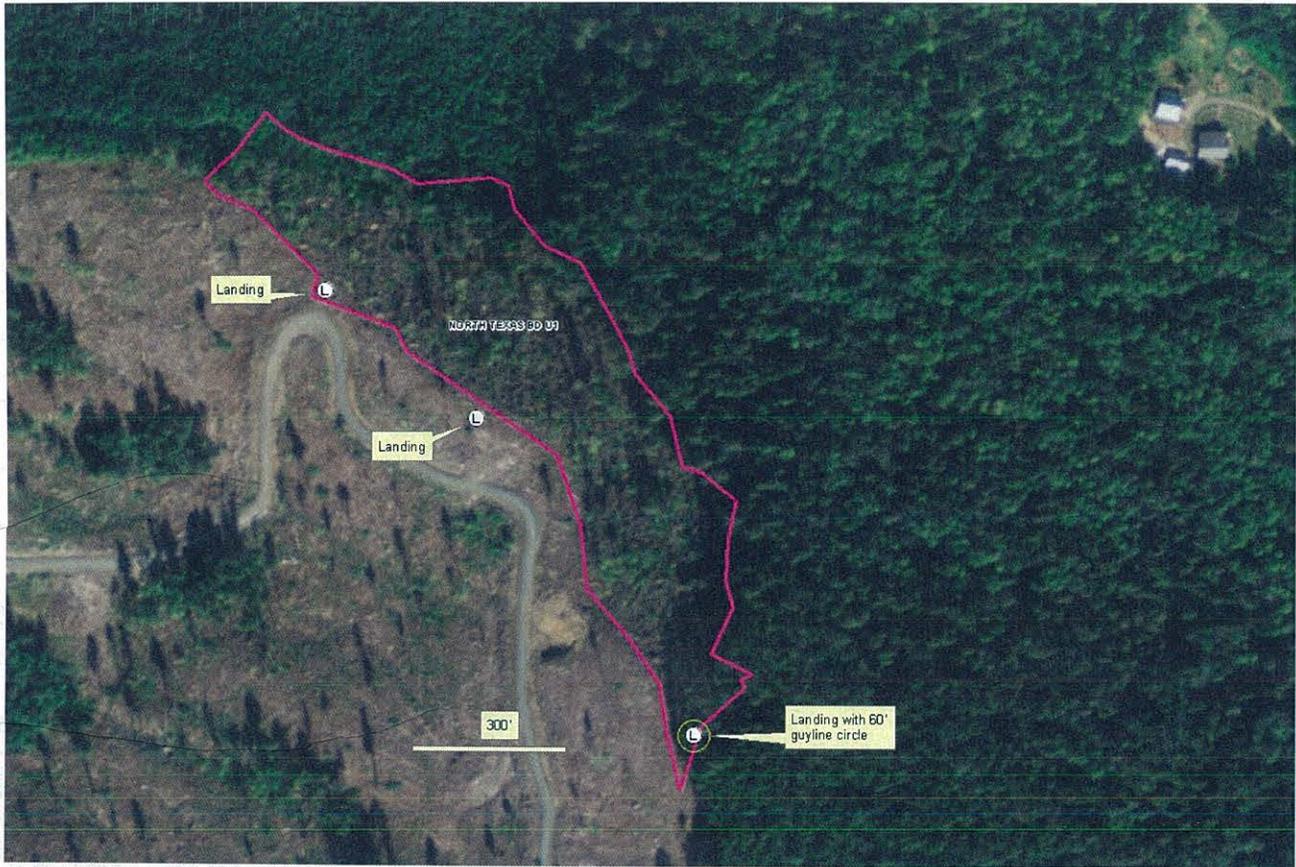
Figure 4. View into the southern portion of the proposed salvage unit. The blowdown in the foreground is occupied site buffer while further downhill the blowdown consists of occupied site itself. The intact stand is also part of the occupied site. Note the simple canopy structure of the surviving trees as well as of the intact second-growth stand.



Figure 5. View over the central portion of the proposed salvage unit looking at the intact occupied site below. This view illustrates the predominant stand condition, a simple canopy structure with very few platform structures in this second-growth stand that lacks abundant large trees with large limbs.



Figure 6. Closer view of the proposal area, landing locations and the 60-foot radius guyline circle that must be cleared. See Figure 3 for a ground-level view of the proposed southernmost landing location.



**ESTEP, ALLEN (DNR)**

---

**From:** Ostwald, Mark <mark\_ostwald@fws.gov>  
**Sent:** Wednesday, May 01, 2013 3:48 PM  
**To:** ESTEP, ALLEN (DNR)  
**Subject:** North Texas salvage sale

Hi Allen,

Thanks for the field visit to the North Texas salvage sale near Sequim today. According to Scot's memo, this is approximately 9 acres of blowdown, which partly includes an occupied murrelet site and its associated buffer. The harvest includes harvesting a few standing trees for one of the landings. There were no platform trees associated with those standing trees.

I support DNR moving forward with this salvage. Thanks for taking the time to show it to me.

--

Mark Ostwald  
US Fish and Wildlife Service  
(360) 753-9564



May 9, 2013

**TO:** Allen Estep, Acting HCP Implementation Manager

**THROUGH:** Allen McGuire, Acting NW Region State Lands Assistant

**FROM:** Lisa Egtvedt, Northwest Region Fish and Wildlife Biologist.

**SUBJECT:** Requesting permission for tailholds within Criteria 2 newly identified marbled murrelet habitat – “Crow’s Nest” timber sale.

During the course of developing a logging plan for the sold Crow’s Nest timber sale, foresters working for Neilsen Brothers Inc. determined that a preferable cable yarding design for Unit 3B would require the use of *up to* four tailhold trees that are located outside of the harvest unit, and just within a stand of Criteria 2 newly identified marbled murrelet habitat. This preferred yarding design would avoid cutting trees within, and radial yarding through, a riparian management zone that is associated with some inner gorge features.

The contract administrator for this sale, Dave Klingbiel, has conducted a site visit and collected data for 15 trees that have been identified as *candidates* for tailholds. Most of the trees are Douglas-fir and western hemlock trees, with a few Pacific silver fir and small western redcedar trees marked, as well. They range in diameter from 14 to 28” dbh, and are in a co-dominant or dominant canopy position. None of the trees are considered to be platform trees, per the current definition under the interim strategy for marbled murrelets in the North Puget Planning Unit.

A representative of the purchaser (Matt Leise, of Sierra Pacific Industries) has proposed mitigation measures that are anticipated to protect the trees that end up being used as tailholds. These measures are designed to protect the bark of the trees so that the bark will not be removed and/or the cambium layer will not be damaged or exposed, and will involve wrapping the boles of the trees with tree tops and large limbs from the adjacent sale area (securing them in place with wire rope prior to rigging). In consultation with a representative of the operator (David Neilsen, of Neilsen Brothers Inc.), it was further determined that there is not likely to be any “line-whip” damage to these or adjacent trees, due to the fact that support trees would be rigged within the harvest unit in conjunction with the tailhold trees.

It is my opinion that this proposal represents a low likelihood of risk to the trees within the murrelet habitat, particularly as the majority of the trees are located within 10-50 feet of the edge of (i.e., not internal to) the stand. A few of the possible tailholds are located as much as 150' to 200' into the stand. As additional mitigation, a daily peak activity timing restriction will be implemented for harvest activities during the period when the tailhold trees are being rigged and used.

It should be noted that the habitat block is not located within 0.25 mile of an occupied murrelet site, and the nearest known occupied site is located approximately 1.7 miles to the southwest.

In summary, it is proposed that **up to four** non-platform trees that are located within 10-200 feet of the edge of Criteria 2 newly identified marbled murrelet habitat be rigged as tailhold trees for cable yarding of the adjacent Crow's Nest timber sale (Unit 3B). Selection of these tailhold trees will be approved by the Contract Administrator. Mitigation measures would be implemented to protect these trees from damage, and timing restrictions would be implemented that would avoid the daily peak activity period for nesting marbled murrelets. This proposal would minimize impacts to adjacent riparian resources, as the alternative would involve radial yarding through an inner gorge RMZ. No removals or habitat modifications are anticipated with this proposal. Please contact me for any additional information needs, or sign below if you concur with the proposal as described above.



Allen Estep, Acting HCP Implementation Manager

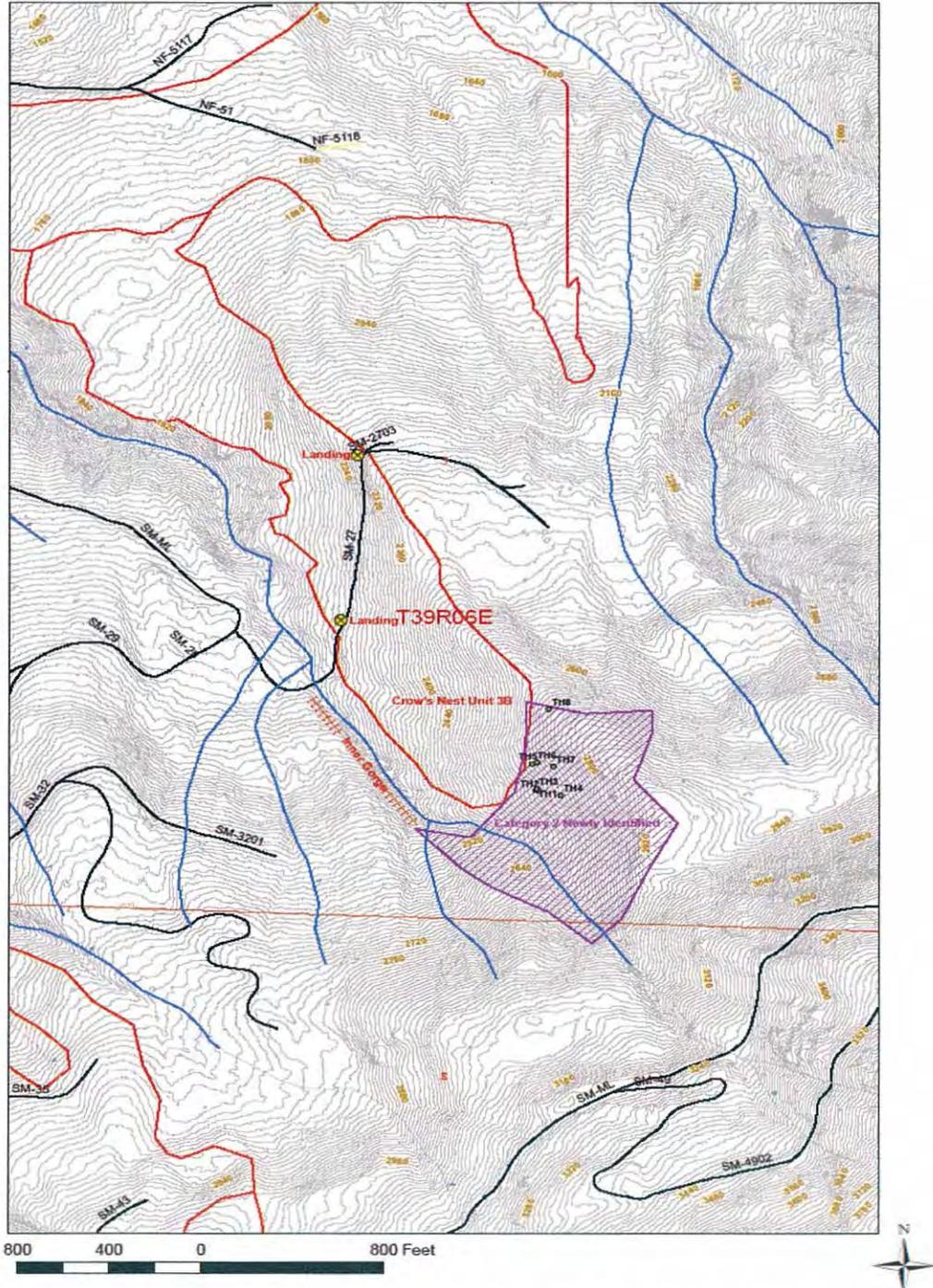
Date

Attachment (1)

c: Crow's Nest Timber Sale File

FIGURE 1. Potential Tailhold Tree Locations for the Crow's Nest Timber Sale.

Crows Nest Timber Sale: Proposed Tailholds 4/19/2013  
D. Klingbiel





**HCP MARBLED MURRELET INTERIM CONSERVATION STRATEGY (MMICS)**  
**Consultation Request Form**  
**PACIFIC CASCADE REGION**

**Directions:** Consult with 10/19/2012 memo, Marbled Murrelet Management within Southwest Washington to ensure activity is compliant with the MMICS. Provide checkbox answers within this consultation request and if needed a brief description of project. Attached completed document to the list item for the activity in the [SharePoint list](#). Set the 'Request Map' field to 'Yes' for a map showing activity proximity to Marbled Murrelet Habitat Layer to be created.

**Activity Name:** [E-7000 Rd Abandonment](#)

**FMU # (if applies):** [NA](#)

**Activity Type(s):** [Road Abandonment](#) [Tree Removal \(not harvest\)](#)  
 Choose an item. Choose an item.

**District:** [Choose an item.](#)

**Legal:** [Sec. 2, Township9 North, Range5, West](#)

**Date of Request:** [4/18/2013](#)

**Project Lead:** [Brett Freeman / Steve Ogden](#)

**Project Lead Phone #** [751-355-6](#)

**Date of Approval:** [Click here to enter a date.](#)

**Approval Signature:** *[Signature]* [5-9-2013](#)  
*Action HCP Implementation Mgr.*

**Pre-screen requirements:**

|   |                                    |
|---|------------------------------------|
| 1. Project is located <u>in</u> MMa   | <a href="#">YES</a>                |
| a. Timber Harvest Activity (all harvest types)  | <a href="#">NO (skip to 1.c)</a>   |
| i. Defer from harvest <u>all</u> Reclassified Habitat   | Choose an item.                    |
| ii. Buffer all Occupied MM Sites and Reclassified Habitat with a 165' no-entry buffer; directionally fell timber away from buffer when safe to do so. | Choose an item.                    |
| b. Thinning Harvest Activity  | <a href="#">NO (skip to #1.c.)</a> |
| i. Thinning located within 0.5 miles from an Occupied Site, and outside buffer<br>Description of project: _____                                       | Choose an item.                    |

|  |  |
|--|--|
| <b>c. Regeneration Harvest Activity</b>  | <b><u>NO</u></b>                         |
| i. Leave Trees have been selected to favor MM habitat and Region Biologist has reviewed<br>Description of project: _____   | Choose an item.                          |
| ii. Advanced planting stock will be used to reforest stands. (Plug-6+1)<br>Description of project: _____   | Choose an item.                          |
| iii. Stands will be prioritized for intermediate silviculture treatments. (PCT, Veg Mgt. ect.)<br>Description of project: _____  | Choose an item.                          |
| d. Reforestation, vegetation management, and PCT, within 0.5 miles of Occupied MM Site, within buffer of Occupied sites and Reclassified habitat and within delineated Occupied site and reclassified habitat polygons where stands (generally less than 30 years old) exist.<br>Description of project: _____ | <b><u>NO (skip to 1.e.)</u></b>          |
| <b>e. Road Construction, Reconstruction, Maintenance or Abandonment.</b>   | <b><u>YES</u></b>                        |
| i. New Road Construction is <u>not</u> permitted within Occupied Sites, Reclassified Habitat or their associated buffers.  | Choose an item.                          |
| ii. Road reconstruction or abandonment within Occupied Sites, Reclassified Habitat or their associated buffers, due to safety or to address adverse environmental conditions.  | <b><u>Applies</u></b>                    |
| 1. Cutting of trees <u>is</u> required<br>Description of project: See Attached Memo.   | <b><u>YES (describe)</u></b>             |
| iii. Project is located outside of Occupied Sites, Reclassified Habitat or their associated buffers.<br>Description of project: _____  | <b><u>PARTIAL</u></b><br><b><u>Y</u></b> |
| f. Proposed Land Transactions within MMMa<br>Description of project: _____   | Choose an item.                          |
| 2. Project is located <u>outside</u> of MMMa, and 1) within surveyed, unoccupied Reclassified Habitat, and/or within 0.25 miles of an Occupied Site.   | <b><u>NO</u></b>                         |
| a. Timber Harvest Activity (all harvest types)   | Choose an item.                          |
| i. Located within surveyed, unoccupied Reclassified Habitat.<br>Description of project: _____  | Choose an item.                          |

|   |                  |
|---|------------------|
| <p><b>ii. Located within 328' of an Occupied MM Site.</b><br/> Evaluate the application of a buffer for any proposed timber harvest activities.<br/> <u>Description of project:</u> _____</p>   | Choose an item.  |
| <p><b>iii. Located within 0.25 miles of an Occupied MM Site.</b> (Consider timing restrictions for noisy activities including but not limited to: felling &amp; bucking, cable and helicopter yarding, operation of heavy equipment and slash disposal or prescribed burning. This does not include hauling)<br/> <u>Description of project:</u> _____</p>                                | Choose an item.  |
| <p><b>b. All Other Management Activities: Located within 0.25 miles of an Occupied MM Site.</b> (Consider timing restrictions for noisy activities including but not limited to: felling &amp; bucking, cable and helicopter yarding, operation of heavy equipment and slash disposal or prescribed burning. This does not include hauling)<br/> <u>Description of project:</u> _____</p> | Choose an item.  |
| <p><b>3. Activities Related to Non-Timber Resources:</b> All non-timber resources (as defined in HCP) must be compliant with the HCP, including Amendment #2 and this Memorandum.<br/> <u>Description of project:</u> _____</p>   | <u><b>NO</b></u> |

April 18, 2013

TO: Clay Sprague, Assistant Division Manager, HCP and Scientific Consultation

THROUGH: Bob Johnson, Pacific Cascade Assistant Region Manager

FROM: Steve Ogden, St. Helens District Manager

SUBJECT: Review of proposed activity by the HCP and Scientific Consultation Section of FRCD, pertaining to the Marbled Murrelet Interim Conservation Strategy (MMICS). E 7000 Road Abandonment.

### SUMMARY

St. Helens district is proposing a limited public works contract to address scheduled Road Maintenance and Abandonment (RMAP) work within the Marbled Murrelet Management area (MMMa). The project scope will include: 1) Abandonment of 3090' of road scheduled for RMAP abandonment 1) Removal 3 stream crossings on Type 3 and Type 4 streams. 2) Removal of all cross drain culverts existing in road grades. 3) Removal of waste material needed in heavy abandonment sections. 4) Apply grass seed and straw, and installation of water bars to control erosion. 5) Removal of woody debris or trees within excavation limits.

This project is located inside of the 0.5 miles from an Occupied Site, within proposed MMMa, with a portion located within reclassified habitat in MMMa, and a small portion within 165' from an Occupied Site.

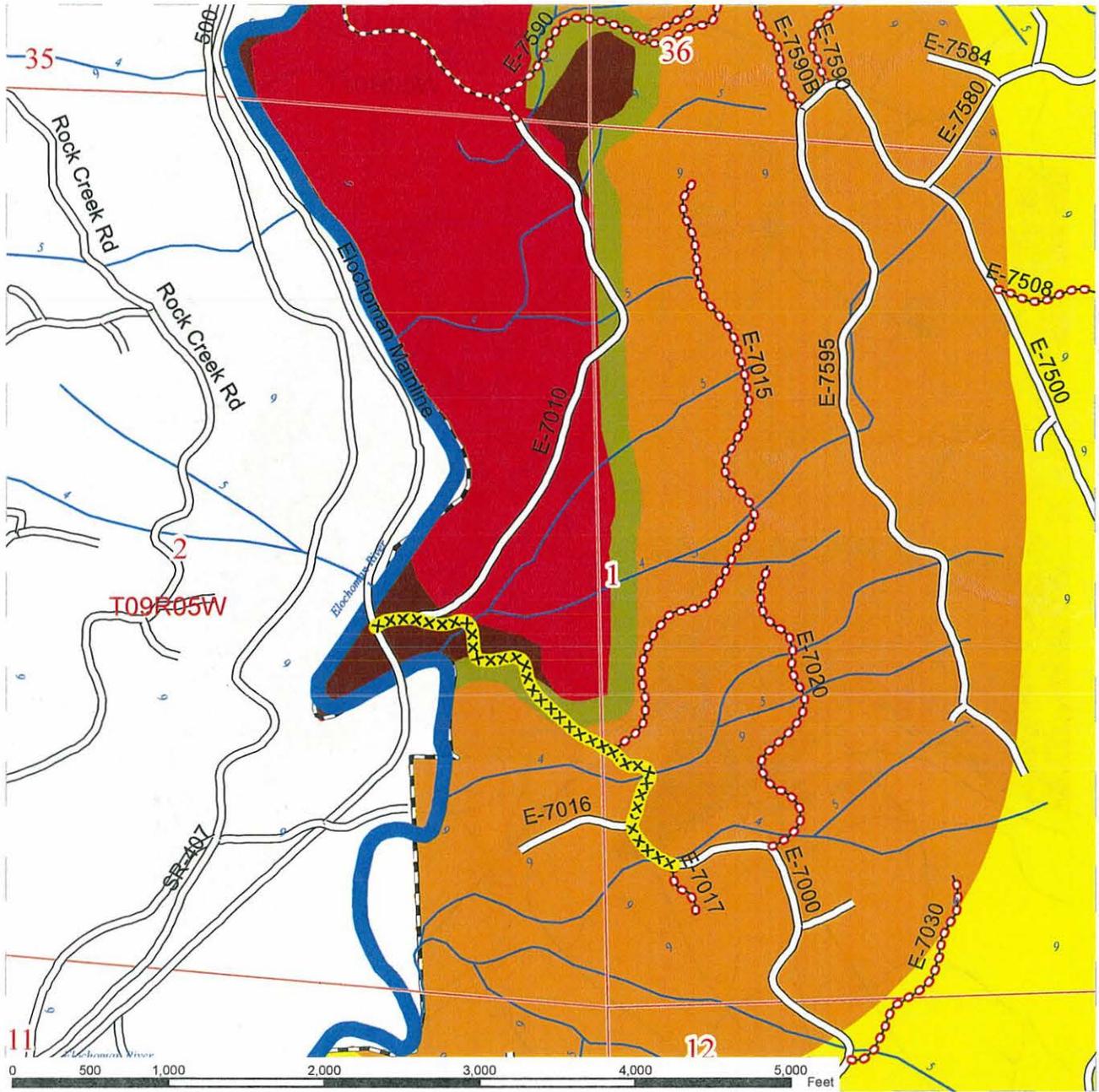
The work associated with this project would entail only occasional trees to be felled if located in excavation limits of stream crossings, or if safety concerns required their removal. Estimates from the design engineer include felling of 7 conifer trees between 6" and 14" DBH, and 17 deciduous trees between 4" and 14" DBH. The stand origins of adjacent timber are 1980, 1985, 1924, and 1895 according to inventory polygons and visual inspection on the ground. As stated above there could be some standing timber cut to facilitate road abandonment work, but these trees will generally be from less than 14" DBH and primarily red alder, Douglas-fir, or western hemlock. The timing of the project would be approximately between 5/1/2014 and 8/30/2014.

Please see attached documents including maps of the area.

# Marbled Murrelet Proximity Map

SALE NAME: E-7000 Rd Abandonment  
 AGREEMENT#: NOT APPLICABLE  
 TOWNSHIP: T9N R04/05W

REGION: Pacific Cascade

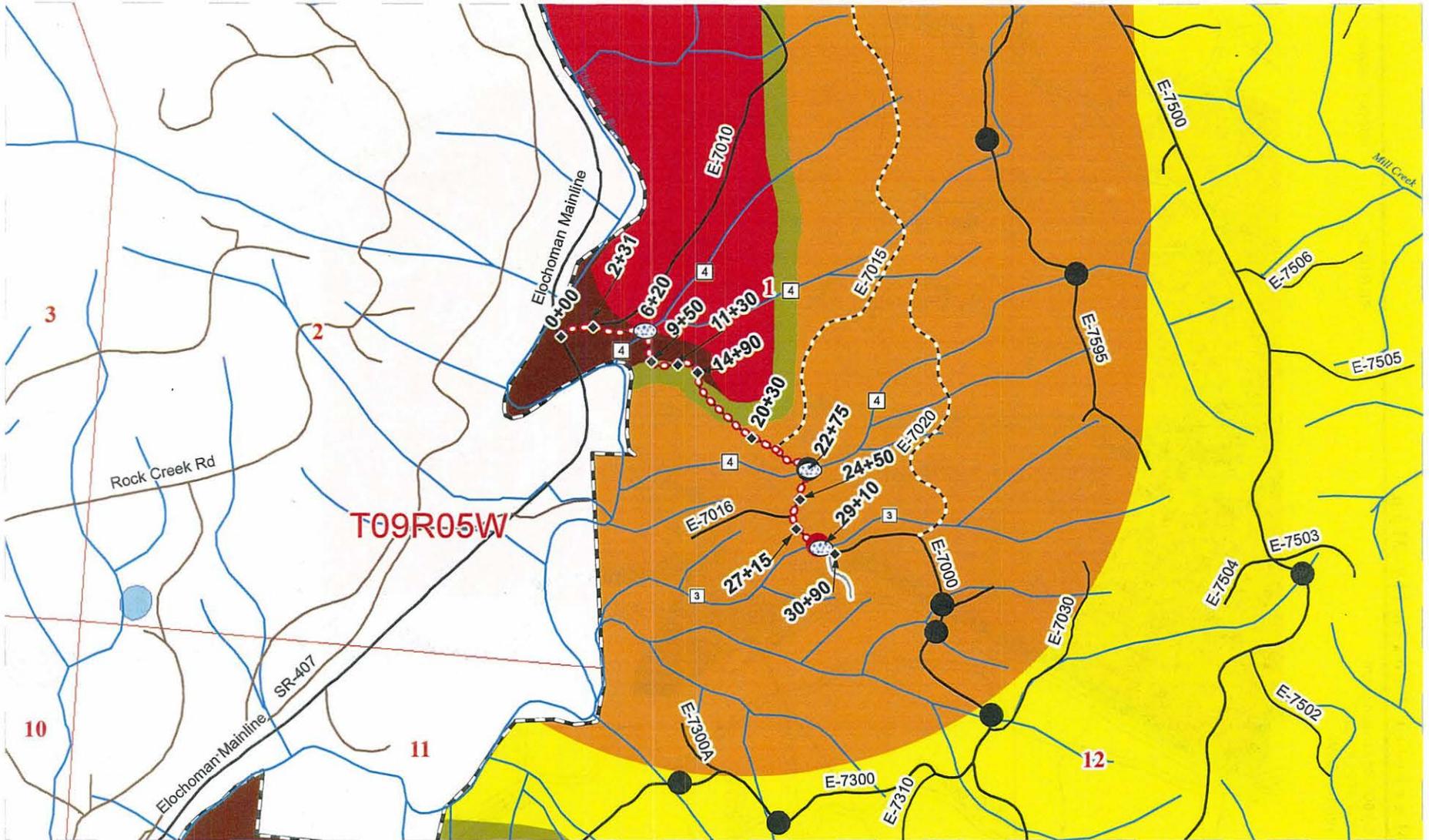


|   |   |  |
|---|---|--|
| Murrelet Habitat - SWWA - Deferred Harvest  | Consultation Needed   | streams  |
| <span style="display:inline-block; width:15px; height:15px; background-color:red;"></span> Occupied Site                          | <span style="display:inline-block; width:15px; height:15px; background-color:yellow;"></span> Within 1/4 Mile from Occupied, or Contiguous Reclassified   | <b>roads</b>   |
| <span style="display:inline-block; width:15px; height:15px; background-color:darkred;"></span> Reclassified Habitat in MMMA       | Not Deferred from Harvest   | <span style="display:inline-block; width:15px; border-bottom:1px solid black;"></span> Existing Road         |
| <span style="display:inline-block; width:15px; height:15px; background-color:olive;"></span> 165 Foot No Harvest Buffer in MMMA   | <span style="display:inline-block; width:15px; height:15px; background-color:gray;"></span> Reclassified Habitat outside MMMA   | <span style="display:inline-block; width:15px; border-bottom:1px dashed black;"></span> Closed               |
| <b>Thinning Activities</b>  | Released Reclassified   | <span style="display:inline-block; width:15px; border-bottom:1px dashed yellow;"></span> Planned Abandonment |
| <span style="display:inline-block; width:15px; height:15px; background-color:orange;"></span> 1/2 Mile from Occupied Site in MMMA | <span style="display:inline-block; width:15px; height:15px; background-color:lightblue;"></span> Check WAU Threshold  |  |
|   | S. Puget Biologist Data   |  |
|   | <span style="display:inline-block; width:15px; height:15px; background: repeating-linear-gradient(45deg, transparent, transparent 2px, yellow 2px, yellow 4px);"></span> Potential, Biologist Assessment Needed |  |
|   | <span style="display:inline-block; width:15px; height:15px; background: repeating-linear-gradient(-45deg, transparent, transparent 2px, yellow 2px, yellow 4px);"></span> Unsuitable                            |  |

Modification Date: 18 Apr 2013



RMAP PROJECT: E 7000 ABANDONMENT



|                  |                     |                    |                     |                             |
|------------------|---------------------|--------------------|---------------------|-----------------------------|
| Existing Road    | Road Reconstruction | Stream Types 1 - 5 | Bridge Installation | Stream Culvert Installation |
| Abandon Road     | Road Construction   | Stream Breaks      | Bridge Removal      | Stream Culvert Removal      |
| Road Maintenance | Streams             | Monumented Corners | Rockpit             | Stream Puncheon Removal     |
|                  |                     |                    |                     | Fill Removal                |

N  
1:12,000

**MEMORANDUM** May 29, 2013

**To:** Allen Estep, Acting HCP Implementation Assistant Division Manager

**From:** Alan Mainwaring, South Puget Sound Region Wildlife Biologist

**Subject:** ROUND TOP TIMBER SALE CONSULTATION- REQUEST FOR ROAD CONSTRUCTION THROUGH NSO NEXT-BEST HABITAT

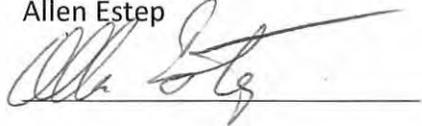
**Issues:** South Puget Sound Region requests consultation with the Forest Resources & Conservation Division to construct approximately 1,200 feet of road through NSO next-best habitat to access the Round Top Timber Sale.

**Background:** The approximately 40 acre Round Top Timber Sale is located in the DNR's Habitat Conservation Plan's (HCP) South Puget Planning Unit in Section 1, T14N R5E. The sale is located in the Tahoma Spotted Owl Management Unit (SOMU) in a designated Northern Spotted Owl (NSO) Dispersal Management Area. The Tahoma SOMU is at 16.97 % habitat threshold. The DNR manages this landscape under its Habitat Conservation Plan (Sept. 1997), the Settlement Agreement (Sept. 2004) and a Modified Dispersal Habitat Strategy Concurrence Letter (Dec. 2009).

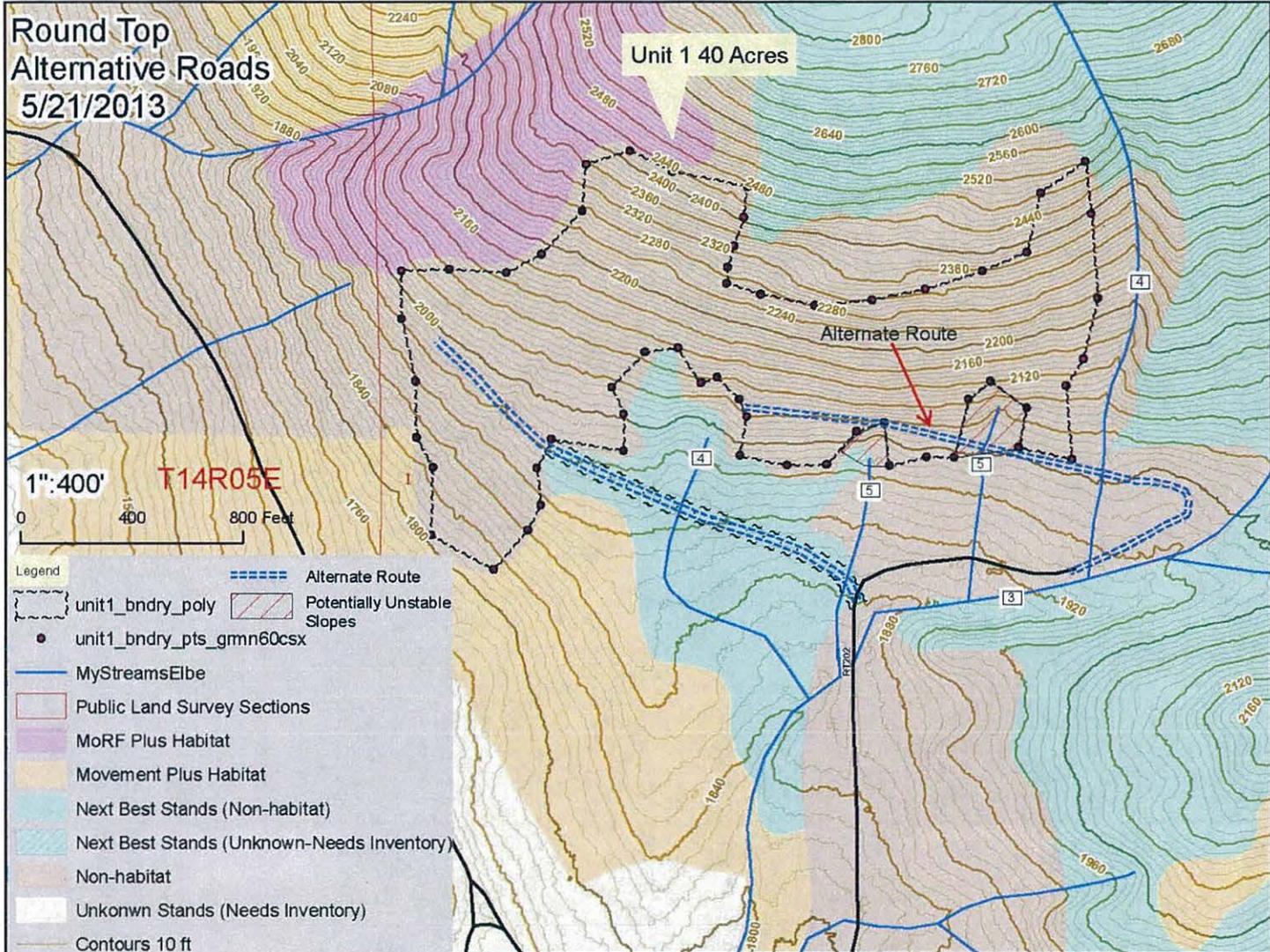
**Discussion:** The Round Top Timber Sale is located in non-habitat and comprised of high density second-growth conifer. New road construction, primarily on an existing RR grade, through designated NSO next-best habitat is needed to access the harvest unit. Additional next-best habitat (100+ acres) was set aside in the planning process to mitigate for future road construction, such as this, and rock pit expansion. The proposed road construction will remove 1.7 acres of designated next-best habitat. This road will also provide access to the Round Top 6 VDT NSO habitat enhancement sale (FY17).

An alternative route in non-habitat was considered by the district engineer by extending the RT 202 road. The alternative route was determined to have a negative impact to protected resources and still not accomplish the objective of avoiding the next-best habitat and reaching the entire harvest unit. The construction of the alternate route would necessitate crossing a Type 4 stream twice, cross rule identified features of unstable slopes and still not gain enough elevation to completely avoid the next-best habitat and access the entire harvest unit. The rebuilding of the RR grade through next-best habitat will clearly have the lowest impact as the grade already has a road bed, has little timber in the road prism, does not cross unstable slopes and is in a primarily hardwood stand.

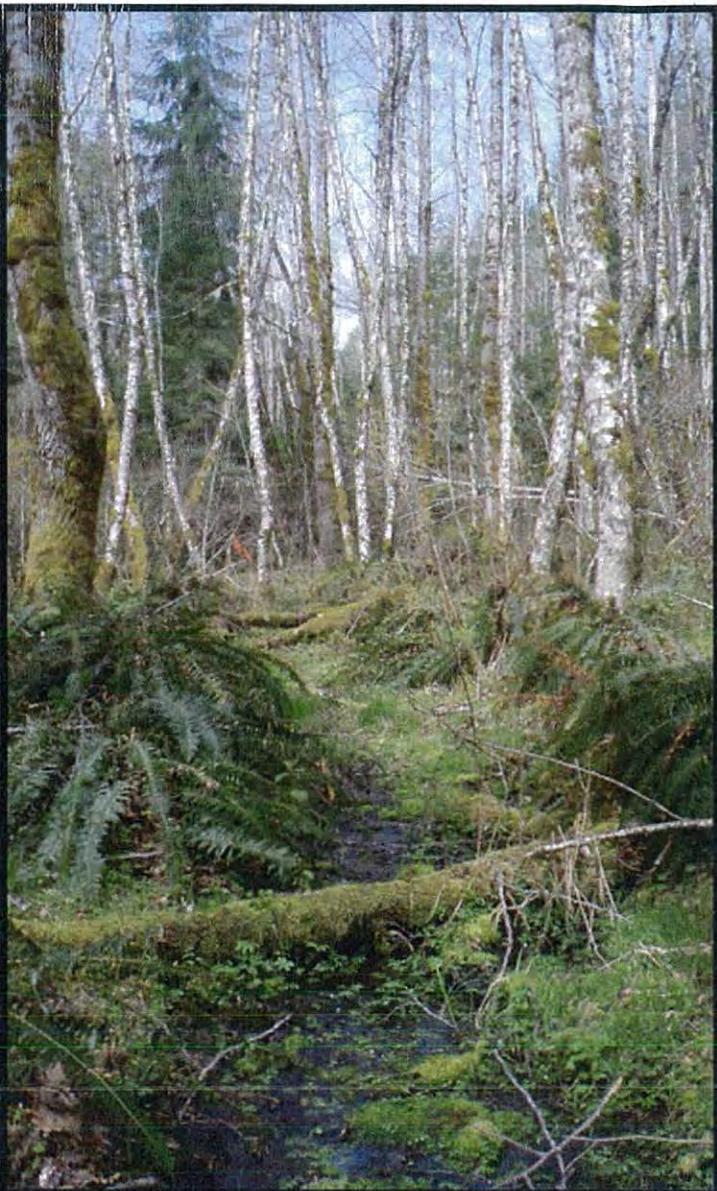
Please contact me if you have any questions or need any additional information. If you concur with the request, please sign below.

*Acting*  
HCP Implementation Manager  
Allen Estep  


Date  
5-31-2013



Round Top Timber Sale  
Access Road in Next-Best



RR Grade



April 8, 2013

To: Clay Sprague, HCP Implementation Manager

Through: Laurie Bergvall, NW Region State Lands Assistant

From: Kevin Killian, Clear Lake District Manager

*Lisa Egly, Fish & Wildlife Biologist*  
Subject: Request to conduct .4 acre right-of-way harvest in suitable Dispersal Habitat in a SOMU below habitat threshold.

**Issue:** The Cavanaugh Unit in Northwest Region is requesting to harvest .4 acre of suitable Dispersal Habitat within the "Sauk Prairie Dispersal" SOMU. This harvest would take place with the planned, "Camp Road" timber sale (scheduled sale date – June 2013). The purpose of this harvest is to prevent an unsafe situation that would be created if this acreage was not harvested along with the planned timber sale, and to allow for more efficient and cost-effective harvest of the planned timber sale.

**Background:** The planned "Camp Road" timber sale will be a VRH harvest, located within a non-habitat stand within a Dispersal management area in the "Sauk Prairie Dispersal" SOMU. This SOMU currently has 48.7% suitable dispersal habitat, which is under the suitable habitat threshold of 50%.

The area (see attached maps) in question is a thin strip of trees along an existing access road at the southwest corner of the planned timber sale. This strip is ~ 30' wide and 372' long on the eastern side of the road – in between the road and the planned VRH harvest. We are also requesting to harvest a 10-15' wide strip on the western side of this road to provide more daylight to the road and provide more room for turn-outs. The total of this area we are proposing to harvest would be ~ .4 acre. It appears that this situation exists due to a mapping error in the Department's NRF/Dispersal management area layer. In this layer, there is a gap that has no habitat designation or NSO conservation designation parallel and adjacent to the northeast side of this strip. It appears that this gap was intended to represent the right-of-way along the existing access road, but was inaccurately mapped. The strip of trees proposed for harvest is a ~ 74 year old, naturally regenerated stand of second-growth mixed conifer. It is beginning to develop some diversity of canopy heights due to the presence of western red cedar and western hemlock. There are no snags, and no large pieces of down wood in this strip.

Leaving the 30' strip of trees on the eastern side of the existing road would prevent an operator from using this road when harvesting the planned "Camp Road" VRH timber sale, which would add to their harvesting time and cost and potentially more impacts to the area due to longer forwarding distances. Leaving this strip un-harvested would also create a hazardous situation where this thin strip of trees between the harvest unit and the existing road would be susceptible to blowing down into the existing access road (which is also used as a private driveway) and/or state Highway 530. Trees within this strip that are within striking distance of the highway would create a "public nuisance," as described in **RCW 47.32.130**. This law would authorize the state Department of Transportation (DOT) to remove these trees. Rather than create a situation where these trees are creating a safety hazard that has to be abated by DOT, I would like to request permission to harvest this strip of trees with our planned timber

sale even though doing so would remove .4 acres that is mapped as suitable habitat within a SOMU that is below its habitat threshold. It is my understanding that harvesting suitable habitat in a SOMU that is below habitat threshold for purposes of right-of-way harvesting at this scale is an acceptable practice.

**Proposed Mitigation:** In order to offset the proposed right-of-way harvest in suitable habitat, I would like to propose the following potential mitigation. There is a thin strip mapped as non-habitat along state highway 530 beginning ~ 250' north of the planned Camp Road timber sale. It varies in width, with a maximum of about 40'. It is ~ 1320' long, with a total area of ~ 7/10 of an acre. This strip is 74 year old mixed-conifer forest that is the same stand as the area mapped as next-best habitat adjacent to it on the west. It is labeled on the map as "proposed mitigation." I would like to propose that this area be designated next-best habitat to partially off-set the acreage that was mapped as suitable dispersal habitat that I have proposed to be harvested.

If you concur with this request, please sign below.

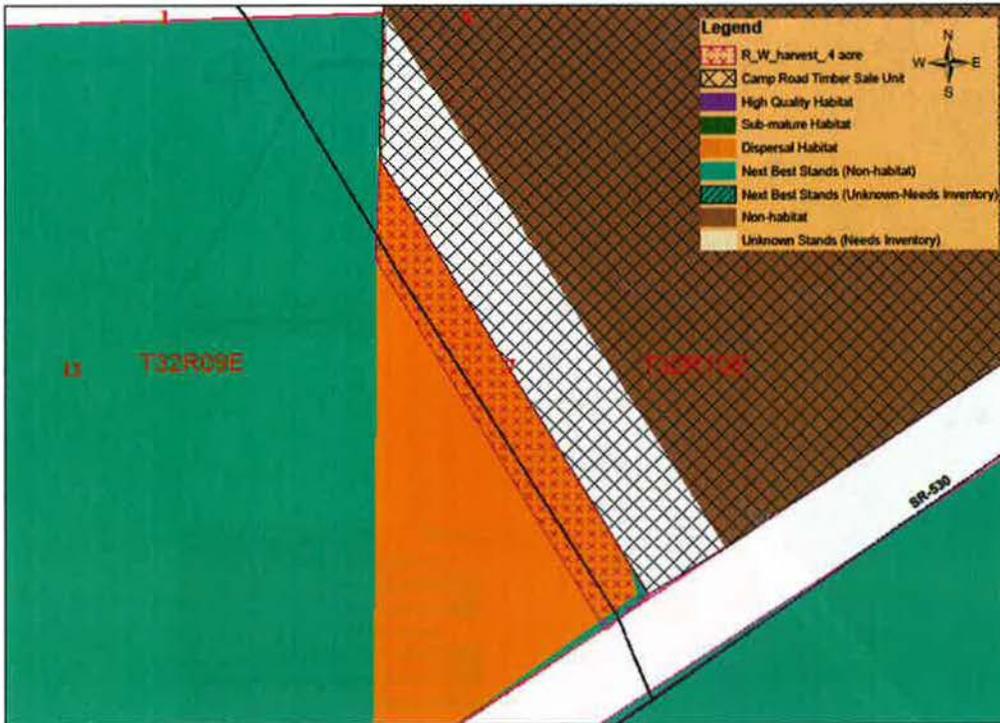
  
Clay Sprague  
HCP Implementation Manager

4/12/13  
Date

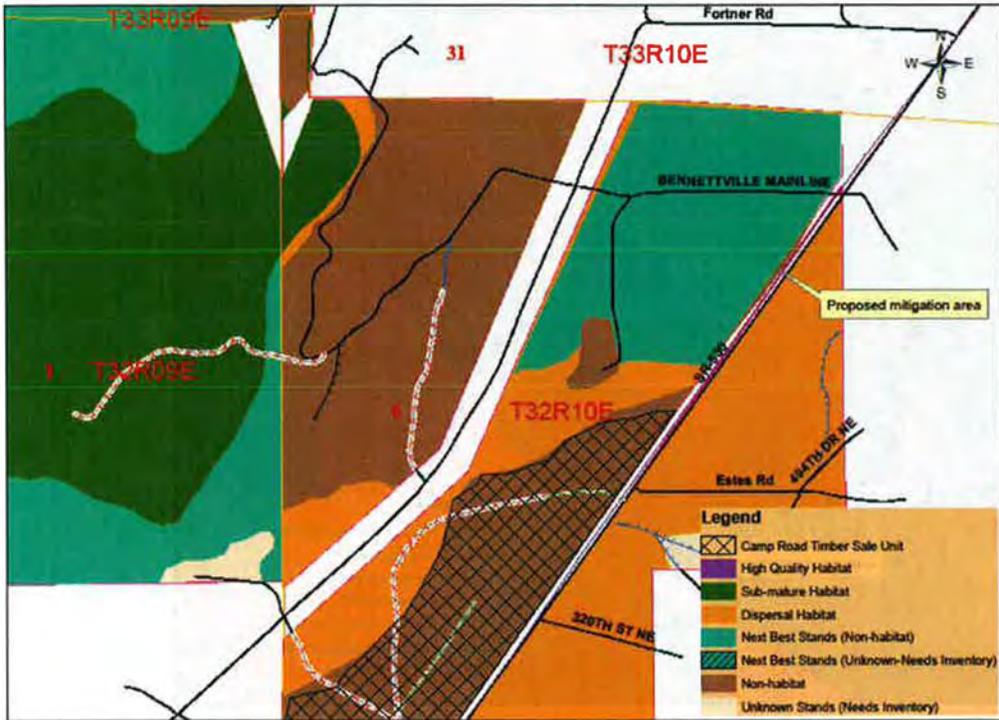
Camp Road NSO Habitat R/W Harvest- Overview



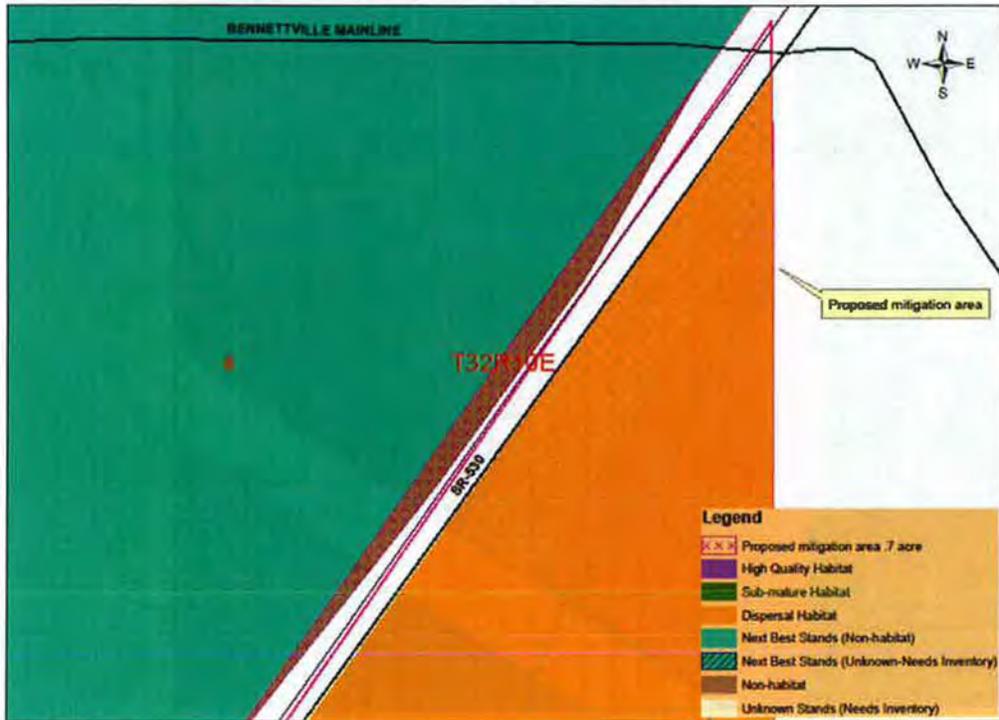
Camp Road NSO Habitat RW Harvest- Detail View



Camp Road NSO Habitat R/W Harvest-  
Proposed Mitigation - Overview



Camp Road NSO Habitat R/W Harvest-  
Proposed Mitigation - Detail



**June 14, 2012**

**TO:** Clay Sprague, HCP Implementation Manager

**THROUGH:** Laurie Bergvall, Northwest Assistant Region Manager

**FROM:** Lisa Egtvedt, Wildlife Biologist, Northwest Region

**SUBJECT:** Firewood salvage of blowdown in stands identified as northern spotted owl “next best” (non-habitat) within Nesting, Roosting, and Foraging (NRF) management areas

Background: The areas of interest are in Northwest Region, in the vicinity of the town of Darrington. One area (hereafter referred to as the “530 Block”) is located approximately six miles to the northeast of Darrington, in the south half of section 17 of Township 33 North, Range 10 East, Skagit County. The other area (hereafter referred to as the “Kirk Lake Block”) is located just barely southeast of the town, in the southeast ¼ of section 22 and northeast ¼ of section 27 of Township 32 North, Range 9 East, Snohomish County. The 530 Block is comprised of four distinct blowdown patches, ranging in size from 0.8 acres to 3.0 acres (see Figure 1 below). The Kirk Lake Block only includes one polygon, approximately 4.3 acres in size (see Figure 2 below). Windthrow events that occurred over the past two winters (2010-2011 & 2011-2012) have resulted in large amounts of blowdown in these patches/polygons, all of which are located within Nesting, Roosting, and Foraging (NRF) management areas. These stands are currently non-habitat that have been identified as “next best”. The Northwest Region would like to conduct a direct sale of firewood in these five distinct polygons, incorporating restrictions that will retain habitat components needed for the future development of suitable spotted owl habitat.

On-site observations: I visited the site on May 23, 2012 accompanied by Walt Ducharme, the state lands forester in charge of setting up the proposed activity. The purpose of my visit was to assess the condition of the current stands in terms of habitat components for suitable spotted owl habitat (sub-mature habitat, per the Forestry Handbook Procedure PR 14-004-120 “Northern Spotted Owl Management (Westside”). All of the stands under consideration for this proposed activity are designated as “Next Best Stands (Non-habitat)”. None of these stands

were considered to be suitable habitat for spotted owls prior to the windthrow events, and they certainly are not suitable habitat following the events. The primary habitat components that are lacking for sub-mature habitat in all of the proposal stands are: three snags/acre  $\geq 20$ " DBH (and 16' tall), and 2,400 cu ft/acre of down wood.

Proposal: Permit a **direct sale of firewood** –to a single purchaser - within these five polygons. Although down wood is one of the habitat components of suitable spotted owl habitat that is lacking in these stands, an additional nuance of the down wood requirement *for existing suitable habitat* per the Settlement Agreement is that there be 10-20 percent cover of “coarse” or “large” down wood, defined as pieces that are  $\geq 20$  inches diameter. Since the proposal area was not in previously-existing habitat, yet there is a desire to promote the development of suitable (sub-mature) habitat, the plan with this proposal is to **mark pieces for retention on site that are  $\geq 20$  inches diameter (at “breast height”), as well as any down cedar, and any other additional down wood (as necessary, with no size requirement) that would result in the retention of a minimum of 2,400 cu ft/acre of down wood on site.**

Because the proposal only involves firewood cutting, it should be possible to work around the very few existing snags that are located within the proposal area. In addition, all standing live trees would remain on site (i.e., they would be specifically excluded from the “products sold” clause). There would be strict on-site compliance conducted in order to ensure the retention of the larger down wood and standing live trees.

Although some consideration has been made regarding the removal of the proposal stands from “Next Best” designation, it is not likely a desirable action, as the areas under consideration are relatively small, and the open “gaps” within these areas are even smaller (i.e., they are on the scale of natural horizontal diversity, ranging from 1/3 acre to 2 acres). The remainder of the salvage polygons have either been thinned through partial cut projects (the Kirk Lake Block is located within “Sir Scotty PC” Unit #3), or naturally thinned via the windthrow events (which includes some of the polygons in the 530 Block).

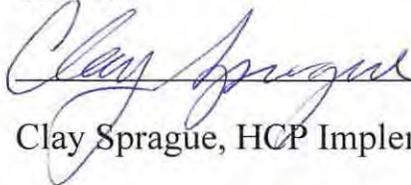
Key points to consider for approval of the proposal include:

- 1) **All of the wood to be removed is on the ground**; all standing live trees will be retained on site, as there will be no need to remove any standing trees in order to access and transport the product (i.e., firewood from the salvage of existing down wood). This will result in a wide range of trees per acre left standing post- salvage, as there are variable amounts of standing trees currently on site. It is estimated that tree densities range from as low as 40 trees per acre (in the areas with more open “gaps”) to about 120-150 per acre in other areas. For a visual representation of the proposal areas, see Figures 3-8, below.
- 2) Removal of down wood <20 inches diameter, while retaining larger pieces, will not slow the progress of the stands toward meeting the habitat components of suitable spotted owl habitat. This is because there is a **very high concentration** of down wood in the majority of the proposed salvage locations. Some of the polygons in the 530 Block in particular are **significantly** over the maximum desired density of large ( $\geq 20$  inches diameter) down wood. Additionally, pieces smaller than 20 inches diameter, will be marked for retention when necessary to ensure a minimum of 2,400 cu ft/acre of down wood on site.
- 3) If the preferred alternative is “No Action”, the continued presence of the large concentrations of down wood could hamper the development of a new cohort of trees (through shading of seedlings and reduction of growing space), and therefore could negatively affect the development of vertical diversity within the stands. While vertical diversity is not a “required” habitat component per the procedure, it is a desired future condition for suitable spotted owl habitat.
- 4) The proposal would encourage **controlled** removal, with monetary benefits to the trust beneficiaries.
- 5) In the 530 Block, there are parts of the polygons that are highly visible from Highway 530. Because of their proximity to the highway, these portions of the proposal could provide an opportunity for public awareness and education.
- 6) In the Kirk Lake Block, there is evidence of existing illegal removal (theft) of down wood (see Figure 9). Part of this is likely due to easy access provided by the skid trails that remain from the “Sir Scotty” partial cut (see Figure 10). It is proposed that the contract for this proposal would require

tank trapping or berms across these skid trails in order to discourage further illegal removal of the down wood in this stand.

- 7) In the larger "gaps" in the stands, an option is being considered to plant cedar seedlings following the salvage activity. See Figure 11 for one of the open areas that may be planted. Post-harvest surveys will be conducted to assess the need for re-planting the harvested areas. If areas  $> \frac{1}{4}$  acre in size are found to contain  $< 150$  trees per acre, these areas will be re-planted with enough western red cedar, so that at least 150 trees per acre will be established in the re-planted area and silviculturally tended to achieve stand objectives.

If you concur that this proposal is consistent with HCP Conservation Strategies and other Department Procedures and that this proposal may proceed, please sign below.

  
\_\_\_\_\_  
Clay Sprague, HCP Implementation Manager

7/3/12  
\_\_\_\_\_  
Date

Figure 3. The blowdown & remaining stand in west-most polygon of “530 Block”.



Figure 4. The blowdown & remaining stand in second polygon (from west) in the “530 Block”.



Figure 5. The blowdown & remaining stand in third polygon (from west) in the “530 Block”. This photo shows a ~1/3 acre opening in the 1.4-ac polygon.



Figure 6. The blowdown & remaining stand in third polygon (from west) in the “530 Block”. This photo shows the naturally-thinned portion of the polygon that surrounds the gap depicted in Figure 5.



Figure 7. The blowdown & remaining stand in fourth polygon (from west) in the “530 Block”. As suggested by the vegetation growing on the down wood, this blowdown likely occurred earlier than that at the other locations.



Figure 8. The blowdown & remaining stand in the “Kirk Lake Block”.



Figure 9. Evidence of illegal removal of down wood in the “Kirk Lake Block”.



Figure 10. Skid trail used for illegal removal of down wood in the “Kirk Lake Block”.



Figure 11. Open area of blowdown proposed for planting following firewood salvage in the “Kirk Lake Block”.







February 25, 2013

**TO:** Clay Sprague, HCP Implementation Manager

**THROUGH:** Laurie Bergvall, NW Region State Lands Assistant

**FROM:** Lisa Egtvedt, Northwest Region Fish and Wildlife Biologist.

**SUBJECT:** Requesting permission for operational access through criteria 1-newly identified marbled murrelet habitat – “Natural Hat Trick” timber sale.

During the course of presales field work for the planned Natural Hat Trick timber sale, foresters John Deschane and Cory McDonald found newly-identified marbled murrelet habitat adjacent to Units 1 and 4. After Peter McBride (then Northwest Region Fish and Wildlife Biologist) reviewed and verified the extent of the habitat, it was determined that there are two blocks of suitable habitat associated with Unit 4, with Criteria 2 habitat (H40041927) located to the east of the unit, and Criteria 1 habitat (H40041905 or H1905) located to the south of – and partially within – this unit. It should be noted that both habitat blocks are not located within 0.25 mile of an occupied murrelet site, with the nearest known occupied site located just under six miles to the northeast.

Sale design for Unit 4 requires a landing within a small portion of the Criteria 1 habitat (H1905), in order to facilitate cable yarding in a steep area with no other feasible landing locations. It is expected that approximately 0.2 acres will be impacted for this operational access through newly-identified habitat, in order to construct the landing and for the placement of associated tower guy-lines. Three platform trees are expected to be removed for this landing, as well as the area between these trees. In addition, up to three more platform trees *may* be removed that are located within or adjacent to planned road rights-of-way (see highlighted points in Figure 1, below). Two of these latter trees are considered to be “marginal” as platform trees, and one has been marked with a double blue ring with the intent of retaining it as a leave tree, if operationally feasible.

It is noteworthy and unusual that there are no old-growth remnants, nor factors such as mistletoe-induced brooming nor mossiness to create concentrations of suitable platform structures

FIGURE 1. Operational Access for Natural Hat Trick Unit 4. Platform trees that will be potentially impacted are highlighted in turquoise.

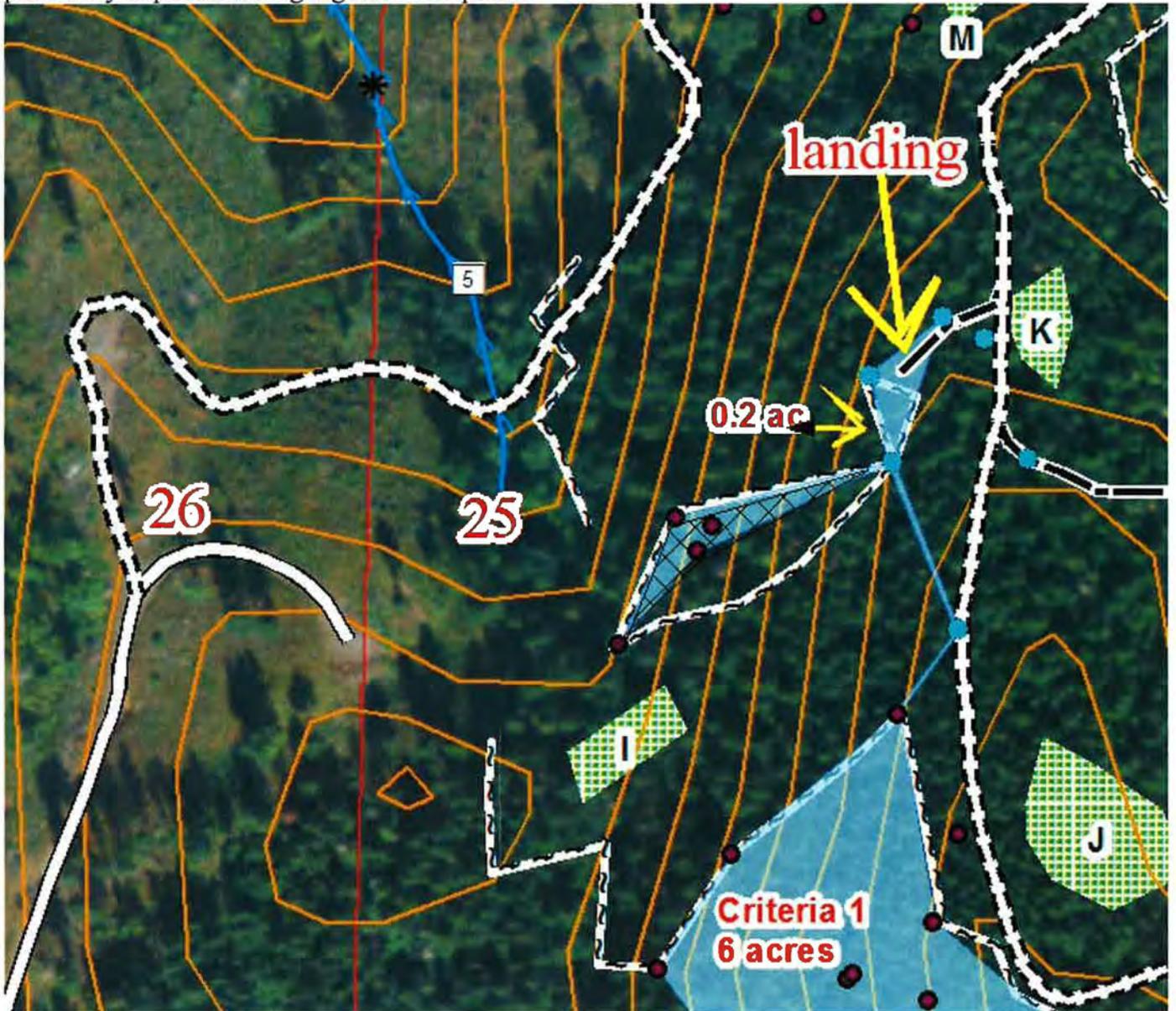
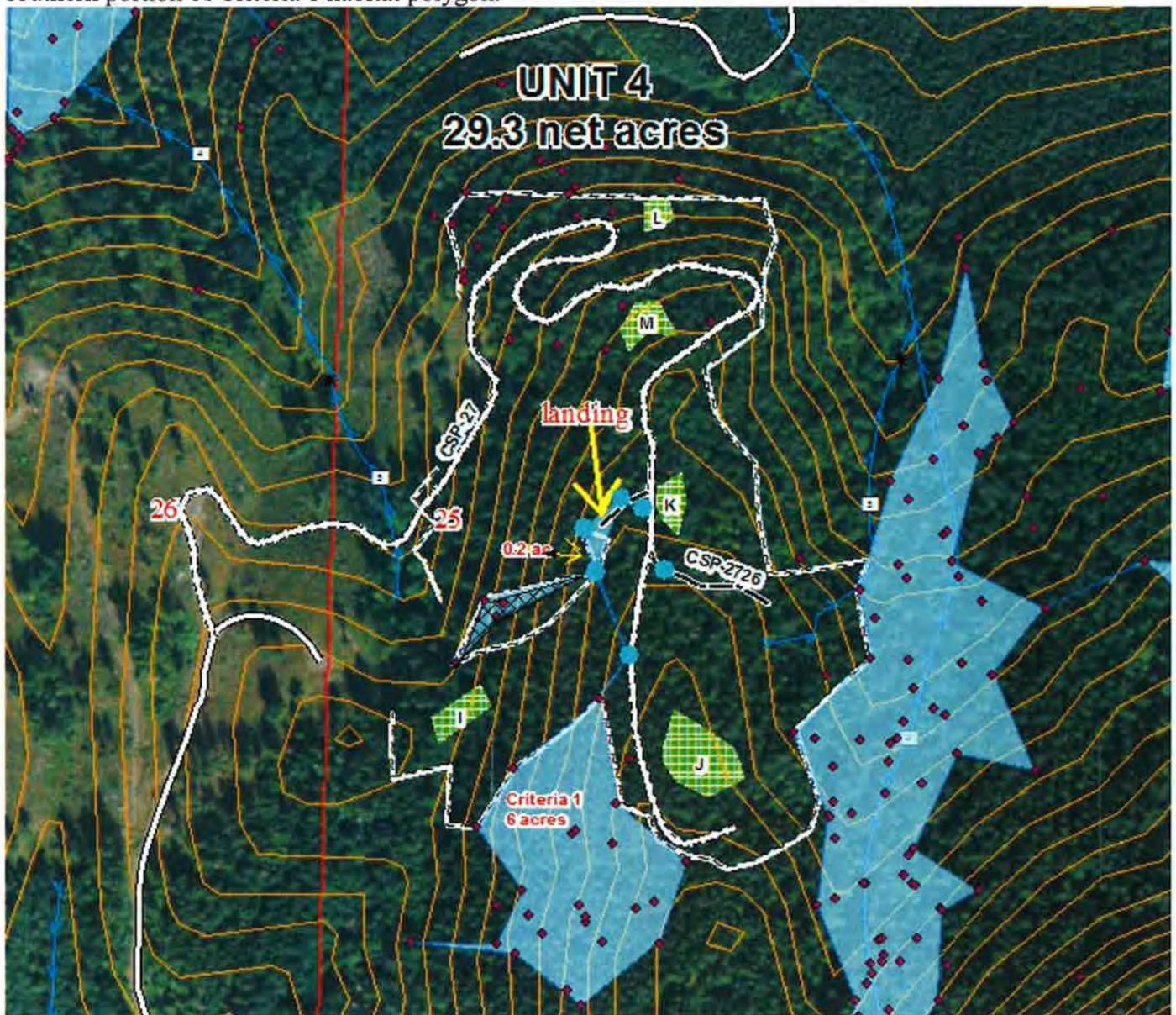


FIGURE 2. Operational Access for Natural Hat Trick Unit 4: Showing linear connection to southern portion of Criteria 1 habitat polygon.

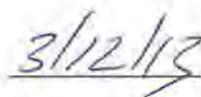


anywhere in this stand. Instead, the available structure derives from some source of historic top-damage, resulting in forked and broken tops and the occasional isolated enlarged limb among the DFs. Individually, the platform trees range from marginal to suitable if low-grade, with only a few reaching moderate quality. This is reflected in the fact that only two trees were recorded with more than one (two each) platform apiece, while most trees had only one marginal to fair platform each.

Please also note that the Criteria 1 habitat that is located within Unit 4 is *linearly connected* to the north of a larger portion of what is considered one suitable habitat polygon, totaling six acres (see Figure 2, below). The total number of platform trees within this “polygon” was found to be 36, containing a *maximum* of 38 platforms. However, several of the platforms/platform trees were considered “marginal”, including the two mentioned above in association with the proposed road construction.

In summary, during the Natural Hat Trick presales fieldwork, two blocks of lower-quality, newly-identified habitat were found in association with Unit 4. Criteria 2 habitat located to the east of the unit has been bounded out of the proposed timber sale. Operational access (construction of a landing & some road construction) is requested through Criteria 1 habitat, which is located to the south of and partially within the unit. This habitat is distinctly marginal, not only being Criteria 1 habitat, but also being devoid of any individual platform trees of significant quality. Beyond the requirements for landing construction and road building described above, no additional removals or habitat modifications are part of this proposal. Please contact me for any additional information needs regarding the habitat quality or its assessment.

  
Clay Sprague HCP Implementation Manager

  
Date

Attachments (2)

c: Natural Hat Trick Timber Sale File

**March 13th, 2013**

**TO:** Clay Sprague

**FROM:** Travis Miranda, Pre-sales Forester, Northwest Region

**SUBJECT:** Conversion from Forest Management

Background:

The DNR State Lands Northwest Region Recreation Program proposes to lease approximately 11 acres for a conversion to a trailhead parking area as part of the Reiter Foothills Recreation Area Plan (see figure 1). We will be harvesting this portion of the RPL contract harvest following approval of Snohomish County Conversion Option Harvest Plan (COHP), SEPA and FPA. The area is located within a NRF management area in non-habitat. The area does not contain any potential marbled murrelet habitat.

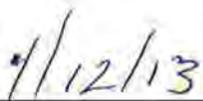
Proposal:

Lisa Egtvedt, the DNR State Lands Northwest Region biologist, has identified a pileated woodpecker cavity located in a snag within the conversion area (current nesting status unknown). DNR State Lands is asking to fall this snag during the harvest to facilitate Labor and Industries safety requirements and the conversion (Figure 2).

In addition, the HCP requires 8 trees/acre left for retention. With 11 acres of the 14 acre sale planned to be converted, DNR State Lands is asking to not retain the 88 trees normally required under the HCP within the area of the proposed conversion. The remaining 3 acres not included in the conversion will retain the 8 trees/acre.

DNR State Lands will adhere to all other HCP policy, i.e. stream buffers, except for the Leave Tree Strategy within the area of the conversion.

  
Clay Sprague,  
HCP Implementation Manager

  
Date

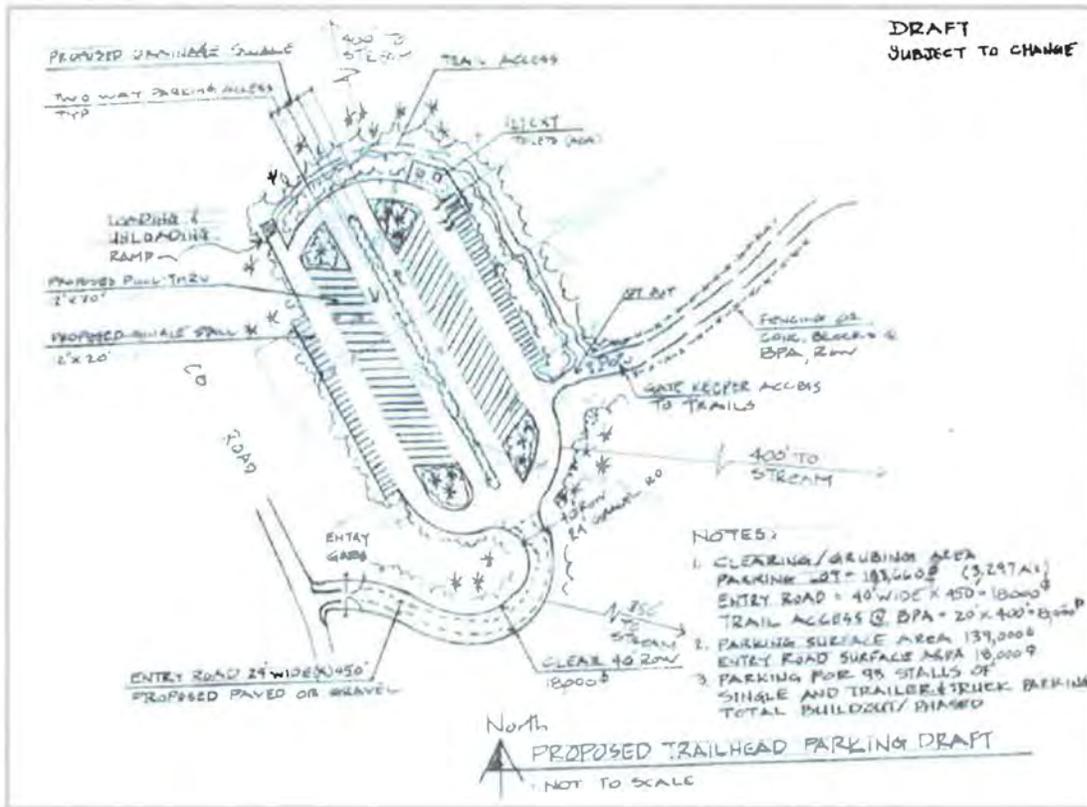


Figure 1

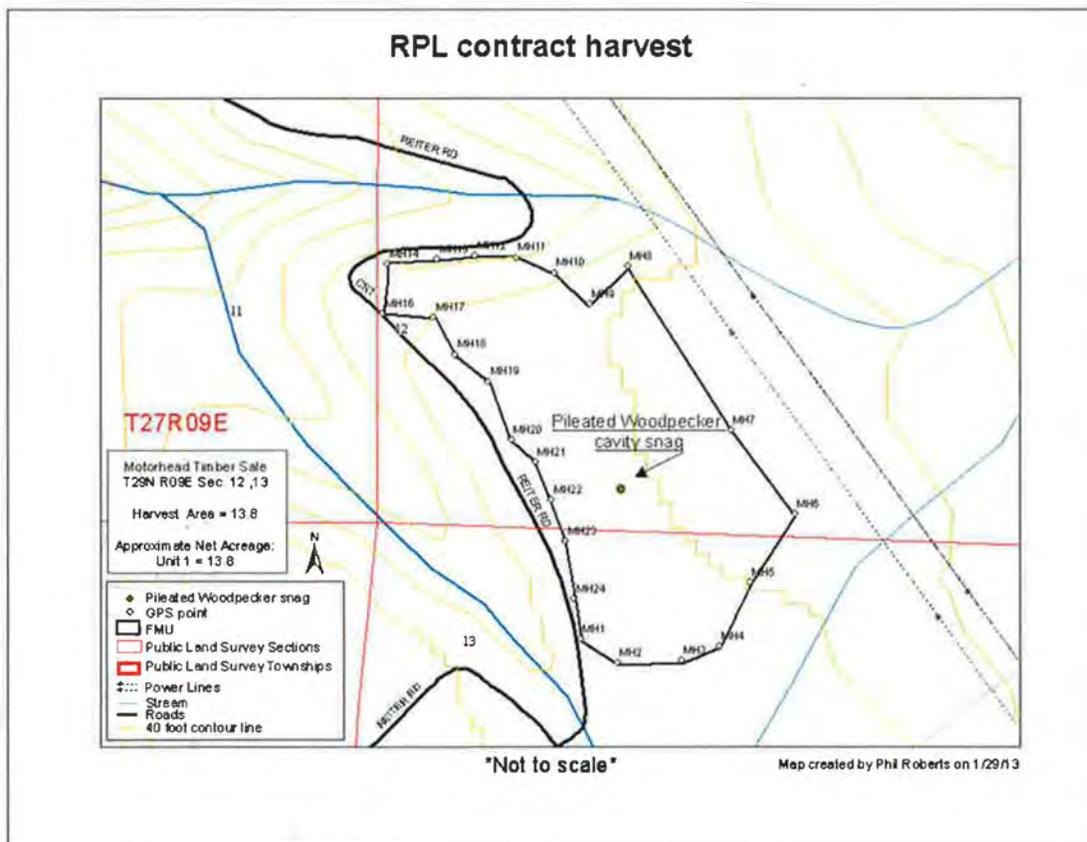


Figure 2

June 25, 2013

TO: Allen Estep, Acting HCP Implementation Manager

THROUGH: Allen McGuire, Acting Assistant Manager, Northwest Region

FROM: Lisa Egtvedt, Wildlife Biologist, Northwest Region

SUBJECT: Proposed Implementation (With Slight Modification) of the Draft Revised Cave Procedure for the Stilly Headwaters VDT & VRH Timber Sale

This letter and the accompanying map (below) describe an additional set of caves that are located within the proposed Stilly Headwaters VDT & VRH timber sale (i.e., in addition to the cave complex that was previously addressed in a November 27, 2012 consultation letter that was reviewed & approved by Clay Sprague). This additional set of caves was originally identified, evaluated, and buffered per the direction that existed in late 2007-early 2008 (prior to the informal adoption of the *draft* revised cave procedure).

Relatively recently, it was determined that a planned road location (for the NM-77 Rd) needed to be rerouted, resulting in a small (approximately 0.4-0.5 acre) incursion of the road right-of-way into an existing cave buffer. The new road right-of-way is anticipated to remove 14 trees, ranging in size from 8 to 20 inches dbh, from the western edge of the buffer. The width of this area of removal would be approximately 14-28 feet. See the map below for a visual representation of this modification to the cave buffer.

Following (in *italics*) are descriptions of the caves (and additional HCP features) that are currently located within this buffer, as they were addressed in the wildlife assessment report for a previously-planned timber sale in the same area ("North Mountain PC", report dated January 10, 2008):

*An area containing an open boulder/talus field, at least two cave-like features, and a small bald has been bounded out of the unit. This area is located in the east/central portion of the proposed unit. The talus is comprised of jumbled boulders and rock rubble, as well as tunnels/passages that potentially reach deep into the ground. During my field visit on July 19 (2007) I heard pikas calling, and saw small "burrows".*

*Both caves are fissures in the ground that meet the definition of a "cave" according to the HCP, but which do not possess particularly remarkable habitat features. One of the caves is located within the talus field. It is more enclosed, so it is feasible that it could provide protective cover for small to medium mammals (i.e., even mammals larger than pikas). The portion of the feature that I was able to observe is relatively small, but could contain a human. It is further comprised of small "passages" in the rock rubble, most of which could not contain a human, but which likely contribute to a cumulative volume that meets the minimum size of 200 cubic feet. Given the size of the talus field, there is potential for more similar "caves" (particularly underground passages) in the vicinity. Because of the fact that any caves in the area are already located in an opening, providing a buffer is not expected to afford additional protection or mitigation for*

*this/these feature(s), particularly when the area will be surrounded by a partial cut silvicultural activity.*

*The other cave is located within the stand, just to the east of the talus field. It is a deep, narrow chasm, with only a portion of the "chamber" that is enclosed (by a bridge and an overhang). It has narrower passages radiating from it underground (with the potential for these to exist for long distances). The total volume of the feature that could be considered a "cave" is likely to be at least 200 cubic feet. I did not find any evidence of animal use at the time of the field visit (no scat or collected materials or such), but there appears to be potential for use, including by roosting bats. However, it may be too accessible to medium-sized animals for it to provide secure protection from disturbance or potential predators. It is also unknown whether it can provide adequate protection from the elements, as it is likely that water can flow into and within the chamber during significant rain events.*

*Given the cave's dimensions and limited wildlife potential, it is not necessary to apply the array of protective measures that the current cave procedure indicates for higher value caves. However, a smaller buffer (125 feet) around the cave entrance should provide an adequate level of protection for this feature, and is consistent with draft cave guidance currently under development. A 125-foot buffer has been marked around the cave opening, tying into the boundary around the talus field. The total acreage that has been bounded out of the unit (talus field plus cave buffer) is 2.4 acres.*

*The bald that I observed within the talus field is relatively small; approximately 25 feet by 40 feet. There is unique vegetation associated with it, including lichens and plants that I was not able to identify (including possibly knick-knick, if my memory serves me correctly). There are also huckleberry and vine maple shrubs on the edges of the bald, and sparsely within it. Without exploring the entire talus field, I could see potential for more areas similar to this to exist in the area. These features should be adequately protected by bounding them out of the proposal.*

It should be noted that the talus field is less than one acre in size, therefore not requiring a specific buffer under the current procedure for talus fields. Also, although the excerpt above states that a 125-foot buffer was marked around the cave entrances, the actual buffer ended up being larger than this in most directions from these cave features. Through rough measurements in GIS, I have determined that one cave has a buffer ranging from 85 feet to 300 feet, and the other has a buffer ranging from 160 to 205 feet. The closest portion of the road right-of-way that would impact the cave buffer is approximately 120 feet from the entrance of the cave feature that is located within the forest stand, and approximately 170 to 205 feet across open talus from the cave feature that is located within the talus field. Per the guidance of the draft revised cave procedure (Feb 2010), these caves would be considered to be LOW to MEDIUM-value caves, requiring at the most a 125-foot buffer. Therefore, it is my opinion that these cave features will still be adequately protected from *most* forms of disturbance, even with this small removal of the existing buffer for the proposed road right-of-way.

Further guidance in the draft revised cave procedure that specifically addresses *roads* states that construction of roads should be avoided within 150 feet and 250 feet of cave *entrances* (for low- and medium-value caves, respectively), and within 150 feet of cave *passages* for both low- and medium-value caves. The proposed road location falls *fairly close* to this guidance.

Furthermore, it is also mentioned in the revised procedure that these distances should be implemented *when roads can be routed in a practical manner*. In this case, alternative locations have been considered and found not to be feasible.

Because the cave features are located *uphill* from the proposed road, there should not be any disturbance from harvest or road-building activities to the soil or vegetation near these features or within the buffer (aside from the 0.4+ acre/14 to 28-foot-wide swath to be removed from the edge of the buffer). In addition, because these features are not particularly visible from the road, there is not likely to be an increase in human disturbance as a result of the new road location.

Noise disturbance is likely to occur due to road building and timber hauling along the road, and because this new road location is expected to function as a new mainline road, it will likely receive continued vehicle use for an indefinite period following the proposed "Stilly Headwaters" harvest activity. Therefore, some additional protection measures are recommended, primarily because I previously noted the *possibility for more cave features* to exist within the talus field (*possibly closer* to the road right-of-way). I also noted the presence of pikas (a species that was proposed for federal listing, although ultimately was not listed). Additional measures could include restricting heavy equipment from within the remainder of the buffer (especially within the talus field), and restricting road-building activities (especially drilling and shooting) within 0.25 mile of the caves and talus field during the winter (November 15-April 1). This timing is recommended in order to avoid disturbance during the time when Townsend's big-eared bats would be most likely to use the caves for roosting, and when pikas might be the most susceptible to harsh conditions if disturbed to the point of leaving their burrows.

Since the draft revised cave procedure has not yet been formally implemented, AND there is a minor adjustment to the existing buffer (which could result in a smaller buffer for *potential* caves that have not been identified on site within the talus field), I am consulting with you to assure that the intent of the procedure is met and that the proposed protection measures are adequate.

Please let me know if you have any concerns with our proposed implementation of the draft revised cave procedure (with slight modification). Otherwise, if you concur with this proposal, and the Northwest Region may proceed with implementation of the draft cave procedure, please sign below.

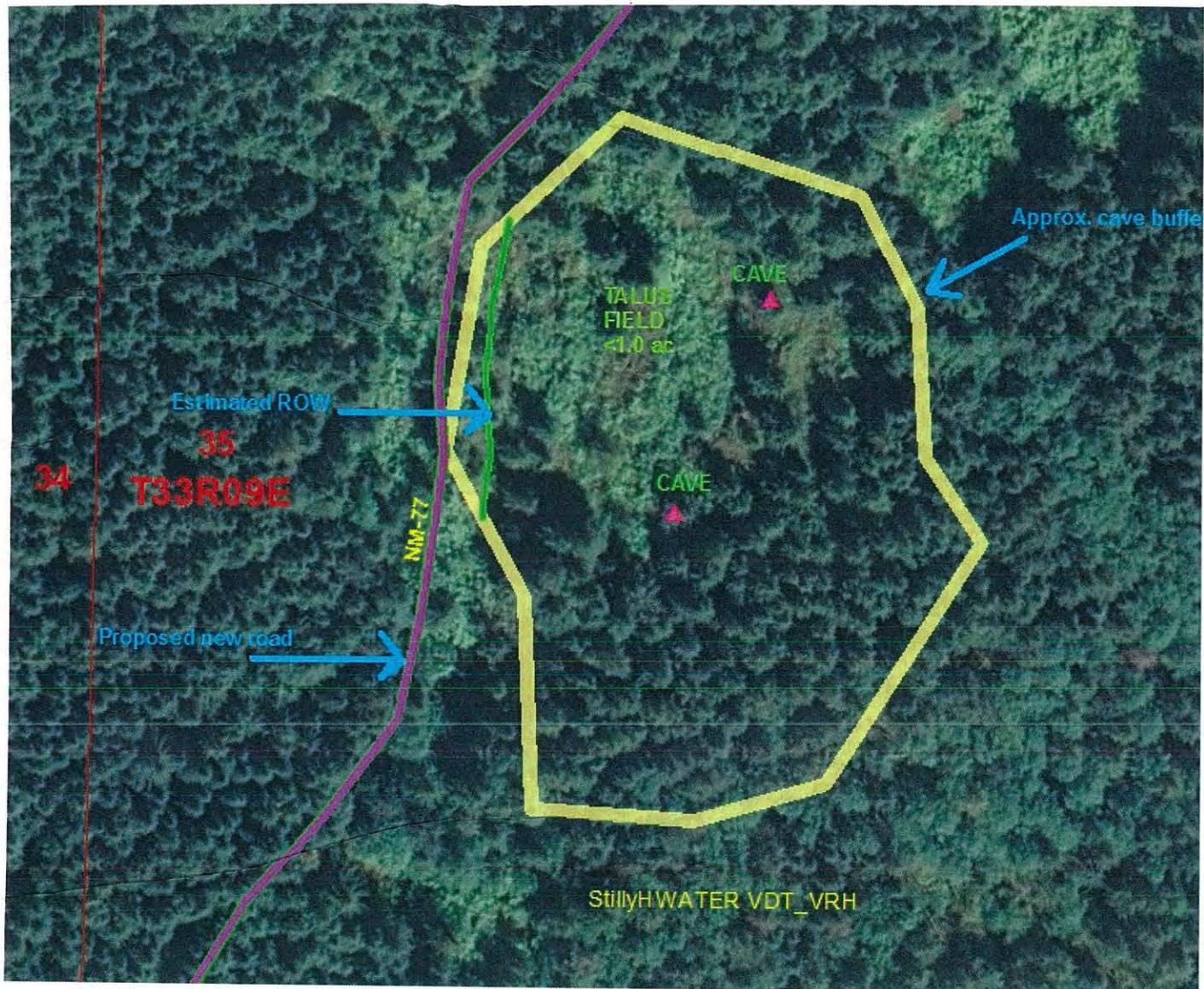


Allen Estep, Acting HCP Implementation Manager



Date

PROPOSED STILLY HEADWATERS VDT & VRH TIMBER SALE:  
ROAD CONSTRUCTION ON EDGE OF CAVE BUFFER



## Protecting Caves

**Cancels:** PR 14-004-180, dated August 1999

**Date:** February 2010

**Application:** All west-side forested ecosystems managed under the Habitat Conservation Plan, including the Olympic Experimental State Forest Planning Unit.

### Discussion

Caves provide habitat for a number of species of plants and animals, including several species of bats and several rare invertebrates and natural communities. Bats such as Townsend's big-eared bat, long-eared and long-legged myotis, fringed myotis, the Larch Mountain salamander, and several rare snails and slugs may make significant use of caves. Few caves are known on DNR-managed lands. While more are likely to be found during management activities, caves will be rare in most HCP planning units. This procedure is intended to protect the physical integrity of the cave, maintain structure, airflow, and current sunlight regime in order to protect the habitat value of caves.

This Procedure clarifies the biology, assessment, and management of caves as it relates to our HCP commitments. Its goal is to protect known resources. Research may find new cave resources in need of protection.

This strategy for cave protection will protect the habitat value of the cave environment by assessing the biological value of newly-discovered and previously known caves, recording the location of all caves (GIS), and minimizing the impacts of management activities near caves. The following conservation objectives for caves are outline in the HCP (page IV. 154):

1. Maintain the microclimate at the cave entrance;
2. Maintain the physical integrity of cave passages; and
3. Minimize human disturbance to bat hibernacula and maternity colonies.

The habitat value of a cave is based on its biological and physical characteristics. Biological characteristics, such as use by bats or rare invertebrates, are often difficult to assess. Significant use by wildlife is rarely distributed uniformly across years and seasons, so accurate measurement requires several visits over at least two years. Many significant species are hard to identify. On the other hand, physical characteristics of a cave can usually be assessed during a single visit and give an estimate of the biological value. This procedure provides guidance for the protection of the biological value of a cave by maintaining its physical characteristics. Significant characteristics include the microclimate at the cave entrance and within the cave, the physical integrity of cave passages and the level of human disturbance.

In general, a larger cave will have greater habitat value than a smaller cave, but in some cases, a small cave with the proper structure and location will be more significant than a larger cave. Habitat value is assigned to one of three categories; high, medium, or low, and is assessed as follows.

### Physical Characteristics

For the purposes of this Procedure, a cave is defined as an enclosed space, generally with an opening smaller than its interior dimensions. Cliff overhangs and simple chasms in rock are not caves. Cave volume is more important than any single dimension measure. Volume is hard to measure precisely, but estimates of length, width, and height are adequate. Complexity of a cave is important; a cave with more than one passage or chamber has greater value than a simple structure of equal volume. Thermal traps are domes in the ceiling of a cave that trap warm air, creating habitat diversity. Volume of a thermal trap can be measured by estimating the volume of space that is above the threshold of the chamber. (The threshold is the low point of a chamber that would prevent warm air from draining out of the cave or up the cave to a higher level.) If a cave cannot be explored, air flow from one or more of the cave entrances suggests an elevation difference and a diversity of interior habitats.

| Habitat Value | Primary Factor           | Modifying Factors         |                        |   |                           |
|---------------|--------------------------|---------------------------|------------------------|---|---------------------------|
|               | Volume                   | Complexity                | Thermal trap volume    | Air flow#   | Presence of water*        |
| High value    | 1500 ft <sup>3</sup>     | >4 passages or chambers   | >200 ft <sup>3</sup>   | Significant airflow, sufficient to move paper or dry leaves | Flowing or standing water |
| Medium value  | 200-1500 ft <sup>3</sup> | 2-4 passages or chambers  | 50-200 ft <sup>3</sup> | Minor air flow, barely noticeable                           |                           |
| Low value     | 20-200 ft <sup>3</sup>   | Single passage or chamber | <50 ft <sup>3</sup>    | No air flow   |                           |

#Air flow will vary seasonally. Most caves have strongest airflow in winter or summer.

\*Presence of water is important in an otherwise dry landscape, but not where surface water is nearby.

Collection of data on volume, complexity, and thermal traps requires seeing into the cave. In most cases, a surveyor can look into the cave entrance with a flashlight and see enough to estimate these factors. Most caves within the area of the HCP in Washington are relatively stable, small, and structurally simple. Dangers encountered in gathering information necessary to analyze the habitat value of a cave are different than those encountered in everyday field work but not significantly greater if caution is exercised.

*The most significant caution is not to exceed your comfort level.* When exploring a cave, consider the following safety concerns. If you don't want to go into a cave, don't do so. If you encounter a condition that doesn't appear safe, leave the cave. Ensure positive communication with someone either on site or at the Region Headquarters upon entering and exiting the cave. Initiate your Region's field check-in/check-out procedures. Each surveyor should carry at least two sources of light. While caves within this area are small, many maintain a climate different from the outside. They will be cool in the summer and warm in the winter, so remember to dress appropriately.

Two significant dangers may be present in any cave, small or large. Overhead rock is not always stable. Surveyors should watch for unstable situations and avoid them. Holes in the floor are not always easily visible. Watch the floor carefully and do not walk through water unless you have probed it thoroughly for the presence of holes.

These guidelines apply to the small caves most often encountered in western Washington. Exploring larger caves, including some talus caves, lava tubes in the southern Cascades, and the limestone caves found occasionally in the Cascades require training and knowledge beyond

the needs of this procedure. The habitat value of these caves can usually be estimated from the cave entrance.

**Biological Characteristics**

While biological significance cannot usually be assessed during a single visit, signs of biological use may be visible during any single visit. Single bats may be found in any cave at any time of year. While locally significant, this type of roost site is rarely a limiting resource for bats. Presence of more than a few bats is significant, especially during the winter, or if young are present during the summer. Signs of heavy bat use such as urine stains on the ceiling or walls of a cave or piles of guano will be hard to find but if seen, indicate significant use.

Many caves will contain nests or guano of small mammals such as mice, pika, and porcupines, but caves are probably not a limiting resource for these animals. Signs of use by larger animals such as cougar or bear add interest to a survey and are more significant.

Some research has been conducted on other significant cave organisms including plants, invertebrates, algae, and bacteria. This information is not yet systematic enough to apply across the range of caves found in the area of the HCP.

| Habitat Value | Bat use#   | Significant use by other vertebrates | Presence of significant plant species, plant communities, invertebrates, or other organisms* |
|---------------|--|--------------------------------------|--|
| High value    | >5 bats or ≥ 1 ESA listed/State SOC** bat seen during a visit or other sign of heavy use |                                      | Known presence of significant plants, communities, invertebrates, or other organisms         |
| Medium value  | 1-5 bats seen or sign of bat use   | Signs of use by large mammals        |  |
| Low value     | No bats or sign of use   | Signs of use by small mammals        |  |

\*Information on caves important to plants, plant communities, invertebrates, or other organisms will be provided to the regions as it becomes available to the Natural Heritage Program.

\*\*SOC refers to WDFW's Species of Concern List (includes State Sensitive, Candidate, Threatened and Endangered).

Bats are especially vulnerable to disturbance during the late spring and early summer maternity period (May-July) and during winter hibernation (October-March). If groups of bats are found during maternity times or even single bats are found during hibernation, surveyors should make a quick estimate of numbers and leave the area to avoid excessive disturbance.

**Integration of Physical and Biological Characteristics**

Biological characteristics take precedence where measurable. A cave of 200 cubic feet where 10 bats are seen is of high value. Due to the difficulty of establishing biological significance, assignment of habitat value will generally be based on physical characteristics.

Among physical characteristics, cave volume takes precedence unless modifying factors raise the value. For instance, a cave of 1000 cubic feet with two passages and a thermal trap of fifty cubic feet is of medium value while a cave of 1000 cubic feet with five passages and a thermal trap of 250 cubic feet is of high value.

While this process will apply with relative ease to most caves, the integration of these factors illustrates the complexity of assessing the habitat value of a cave.

If additional field assistance is needed to determine the significance of a cave in question, please contact Ecosystem Services Section.

### **Action**

1. Field locate previously known or recorded caves within 0.25 mile of a management unit/activity. Recorded caves are located on WDFW's Priority Habitats and Species (PHS) GIS layer.
2. Assess biological value of each cave. If entry is necessary and possible, follow the precautions listed above.
3. Determine if proposed management activity occurs within 0.25 mile of a cave. If so, take the following actions.

#### **If a cave is of high value**

- a. Establish a minimum 250 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 100 foot buffer on each side of cave passages. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 0.25 mile of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.
- d. Do not construct roads within 300 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

#### **If a cave is of medium value**

- a. Establish a minimum 125 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 50 foot buffer on each side of the cave passage where surface activity may disturb a cave passage. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 250 feet of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.
- d. Do not construct roads within 150 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

#### **If a cave is of low value**

- a. Establish a minimum 30 foot radius buffer around the cave entrance. Do not disturb soil or vegetation within the buffer.
- b. Establish a 30 foot buffer on each side of the cave passage where surface activity may disturb a cave passage. Do not disturb soils or vegetation within the buffer.
- c. Do not construct roads within 150 feet of a cave entrance, when roads can be routed around caves in a practical manner that is consistent with other objectives of a comprehensive landscape-based road network planning process.

- d. Do not construct roads within 150 feet of a cave passage where surface activities may disturb the passage and roads can be routed around caves in a practical manner, consistent with other objectives of a comprehensive landscape-based road network planning process.

Obtain region manager approval for all road construction that the region determines to be necessary and that cannot be routed around a cave or cave passage in a practical manner. Inform Ecosystem Services Section if this variance is necessary.

## SPRAGUE, CLAY (DNR)

---

**From:** Mark\_Ostwald@fws.gov  
**Sent:** Friday, February 06, 2009 4:05 PM  
**To:** ESTEP, ALLEN (DNR)  
**Cc:** MIKETA, TAMARA (DNR)  
**Subject:** RE: FW: cave procedure

Hi Allen,  
Sorry it took so long to get back to you. I agree that this procedure is consistent with the HCP. Thanks in advance for adding the information on T & E species.

Mark Ostwald  
U.S. Fish & Wildlife Service  
(360) 753-9564

"ESTEP, ALLEN  
(DNR)"  
<ALLEN.ESTEP@dnr.  
wa.gov> To  
<Mark\_Ostwald@fws.gov>  
CC  
01/27/2009 12:47 "MIKETA, TAMARA (DNR)"  
PM <tamara.miketa@dnr.wa.gov>  
Subject  
RE: FW: cave procedure

**INTERAGENCY AGREEMENT**  
**Between the**  
**STATE OF WASHINGTON**  
**DEPARTMENT OF NATURAL RESOURCES**  
**and JEFFERSON COUNTY**

**DOWANS CREEK ROAD MITIGATION PROJECT**

**Department of Natural Resources Interagency Agreement No. 13-343**

**PARTIES TO THE AGREEMENT**

This Interagency Agreement (hereinafter referred to as "Agreement") is entered into between the Washington State Department of Natural Resources, (hereinafter referred to as "DNR"), located at 1111 Washington Street SE, PO Box 47014, Olympia, WA 98504-7014, and Jefferson County, a municipal corporation and political subdivision of the State of Washington (hereinafter referred to as "Jefferson County"), located at 621 Sheridan Street, Port Townsend, WA 98368, and shall be binding upon the agents and all persons acting by or through the parties.

**AUTHORITY**

DNR and Jefferson County enter into this Agreement under authority of the Interlocal Cooperation Act, chapter 39.34 RCW.

**PURPOSE OF THE AGREEMENT**

Jefferson County finds it necessary for public health and safety reasons to realign the Dowans Creek Road onto DNR-managed land and through an occupied marbled murrelet stand, a listed threatened species under the Federal Endangered Species Act. Mitigation for the impacts of this project involves acquisition of certain real property which has been generally agreed to by U.S. Fish and Wildlife Service (USFWS) and DNR as described in the memorandum dated November 15, 2012, between USFWS and DNR, attached to and made a part of this Agreement as Attachment C. USFWS and DNR have agreed on several eligible parcels within the Dabob Bay Natural Area that will provide mitigation for the Dowans Creek Road Emergency Repair Project (hereinafter referred to as "Project").

The purpose of this Agreement is to set forth the agreement between DNR and Jefferson County whereby Jefferson County either pays for or reimburses the DNR for the purchase of two of the eligible parcels of real property, including related transaction costs, for mitigation to realign the Dowans Creek County Road onto DNR-managed land and through an occupied marbled murrelet stand.

**INTERAGENCY AGREEMENT**  
**Between the**  
**STATE OF WASHINGTON**  
**DEPARTMENT OF NATURAL RESOURCES**  
**and JEFFERSON COUNTY**

**IT IS MUTUALLY AGREED THAT:**

**1.01 Statement of Work.** DNR shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to performing work set forth in Attachment A attached to and made part of this Agreement.

**2.01 Period of Performance.** Subject to its other provisions, the period of performance of this Agreement shall begin on January 1, 2013 and end on December 31, 2013, unless terminated sooner as provided herein or extended through a properly executed amendment.

**3.01 Payment.** The parties estimate that the cost of accomplishing the work will not exceed TWO HUNDRED THIRTY THOUSAND DOLLARS (\$230,000.00). Payment for satisfactory performance of work shall not exceed this amount unless the parties mutually agree to a higher amount as provided in Section 7.01 below. Reimbursement shall be based on the amounts and terms described in Attachment B, attached to and made part of this Agreement.

**4.01 Billing Procedures.** Payment to the DNR will be made by warrant or account transfer within 30 days of receipt of the invoice by Jefferson County. When the Agreement expires, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

**5.01 Records Maintenance.** The parties to this Agreement shall each maintain books, records, documents and other evidence, to sufficiently document all direct and indirect costs expended by either party in the performance of services described herein. These records shall be available for inspection, review, or audit by personnel of both parties, other personnel authorized by either party, the Office of the State Auditor, and appropriate federal officials as authorized by law. DNR shall keep all books, records, documents, and other material relevant to this Agreement for six years after agreement expiration. The Office of the State Auditor, federal auditors, and any persons authorized by the parties shall have full access to and the right to examine any of these materials during this period.

Records and other documents in any medium furnished by one party to this Agreement to the other party will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose any confidential information to any third parties without first notifying the furnishing party and giving it a reasonable opportunity to respond. Each party will use reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties. However, the parties acknowledge that each party is subject to chapter 42.56, the Public Records Act.

**INTERAGENCY AGREEMENT**  
**Between the**  
**STATE OF WASHINGTON**  
**DEPARTMENT OF NATURAL RESOURCES**  
**and JEFFERSON COUNTY**

**6.01 Independent Capacity.** The employees or agents of each party who are engaged in performing this agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

**7.01 Amendments.** This Agreement may be amended by mutual agreement of the parties. Amendments shall be in writing and signed by personnel authorized to bind each of the parties. Jefferson County and DNR shall not be bound by any oral representations or statements.

**8.01 Termination for Convenience.** Either party may terminate this Agreement by giving the other party 30 days prior written notice. If this Agreement is terminated, the terminating party shall be liable to pay only for those services provided or costs incurred prior to the termination date according to the terms of this Agreement.

**9.01 Termination for Cause.** If for any cause either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of the terms and conditions, the aggrieved party will give the other party written notice of the failure or violation. The aggrieved party will give the other party 15 working days to correct the violation or failure. If the failure or violation is not corrected within 15 days, the aggrieved party may immediately terminate this Agreement by notifying the other party in writing.

**10.01 Disputes.** If a dispute arises, a dispute board shall resolve the dispute like this: Each party to this Agreement shall appoint a member to the dispute board. These board members shall jointly appoint an additional member to the dispute board. The dispute board shall evaluate the facts, Agreement terms, applicable statutes and rules, then determine a resolution. The dispute board's determination shall be final and binding on the parties.

**11.01 Governance.** This Agreement is entered into under the authority granted by the laws of the state of Washington and the venue for any action brought under this Agreement shall be in Superior Court of Thurston County. The parties agree that all activity pursuant to this Agreement shall be in accordance with all applicable federal, state and local laws, rules and regulations as they currently exist or as amended.

If there is an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- (1) Applicable State and federal statutes, and local laws, rules and regulations;
- (2) Statement of Work; and

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**DEPARTMENT OF NATURAL RESOURCES**  
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- (3) Any other provisions of the Agreement, including materials incorporated by reference.

**12.01 Assignment.** The work to be provided under this Agreement and any claim arising from this agreement can not be assigned or delegated in whole or in part by either party, without the express prior written consent of the other party. Neither party shall unreasonably withhold consent.

**13.01 Waiver.** A party that fails to exercise its rights under this Agreement is not precluded from subsequently exercising its rights. A party's rights may only be waived through a written amendment to this Agreement.

**14.01 Severability.** The provisions of this Agreement are severable. If any provision of this Agreement or any provision of any document incorporated by reference should be held invalid, the other provisions of this Agreement without the invalid provision remain valid.

**15.01 Responsibilities of the Parties.** Each party to this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omission on the part of itself, its employees, its officers and its agents. Neither party assumes any responsibility to the other party for the consequences of any claim, act or omission of any person, agency, firm, or corporation not a part of this Agreement.

**16.01 Complete Agreement in Writing.** This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.

**17.01 Project Coordinators.** The Project Coordinator for each of the parties shall be the contact person for this Agreement. All communications and billings will be sent to the project coordinator unless otherwise specified

Jefferson County:     Jim Pearson  
                              Jefferson County Public Works Department  
                              623 Sheridan Street  
                              Port Townsend, WA 98368  
                              (360) 385-9162

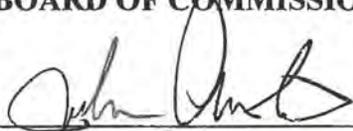
**INTERAGENCY AGREEMENT**  
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**and JEFFERSON COUNTY**

DNR: Julie Sandberg  
Conservation, Recreation, & Transactions Division  
1111 Washington St SE  
PO Box 47014  
Olympia WA 98504-7014  
(360) 902-1407

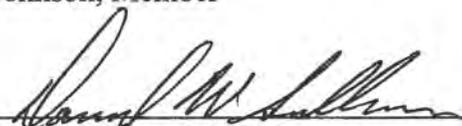
APPROVED AND ADOPTED this 10<sup>th</sup> day of June, 2013.

IN WITNESS WHEREOF, the parties have executed this Agreement.

**JEFFERSON COUNTY**  
**BOARD OF COMMISSIONERS**

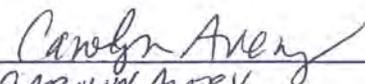
  
\_\_\_\_\_  
John Austin, Chair

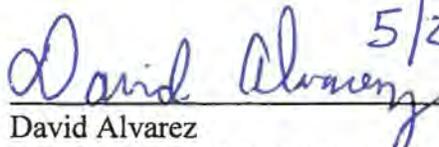
  
\_\_\_\_\_  
Phil Johnson, Member

  
\_\_\_\_\_  
David W. Sullivan, Member

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CAROLYN AVERY  
Deputy Clerk of the Board

  
\_\_\_\_\_  
David Alvarez  
Deputy Prosecuting Attorney

5/28/13

**INTERAGENCY AGREEMENT**  
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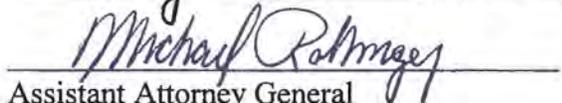
**STATE OF WASHINGTON**  
**DEPARTMENT OF NATURAL RESOURCES**

Dated: June 17, 2013

  
Peter Goldmark  
Commissioner of Public Lands

Interagency Agreement  
Approved as to Form this 13 day of

May, 2013

  
Assistant Attorney General  
State of Washington

**INTERAGENCY AGREEMENT**  
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**Attachment A**

**STATEMENT OF WORK**

Washington State Department of Natural Resources will perform all tasks necessary to acquire fee simple ownership of the following properties located in Jefferson County, Washington, as approved by USFWS for mitigation purposes:

1. The Gustafson property as further described in the November 15, 2012, memorandum in attachment C to the agreement.
2. The Allen property as further described in the November 15, 2012, memorandum in attachment C to the agreement.

Jefferson County will reimburse DNR for any and all acquisition costs including staff time, appraisal work, purchase price and closing costs associated with these properties.

**DNR Deliverables:**

1. Conduct title and property reviews in order to identify any issues or attributes that may affect value.
2. Obtain appraisal and review appraisals to USPAP Standards for fee simple properties.
3. Acquire Title Insurance for each property.
4. Process the closing of the transaction by updating title documents and other internal records.
5. Ensure that both properties are deed restricted to acknowledge they were acquired for mitigation purposes for the Dowans Creek Road Emergency Repair Project.
6. Notify USFWS and Jefferson County when property closings have occurred and provide copies of recorded deeds.

**INTERAGENCY AGREEMENT**  
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**and JEFFERSON COUNTY**

**Attachment B**

**BUDGET**

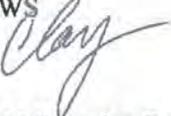
The parties have estimated the cost of accomplishing the work will not exceed TWO HUNDRED THIRTY THOUSAND DOLLARS (\$230,000.00).

1. Each invoice voucher submitted to Jefferson County by DNR will clearly reference "*Interagency Agreement No. 13-343*".
2. Any and all staff time spent by DNR for related activities to this Agreement including, but not limited to, those identified in Attachment A, Statement of Work, will be billed at DNR's actual costs. Costs include an amount to cover any and all charges including but not limited to salary, benefits and indirect costs.
3. Other expenses related to this Agreement including, but not limited to, appraisals, closing costs, etc. will be billed at DNR's actual costs for expenses.
4. DNR will invoice Jefferson County for all costs associated with the acquisition of the Gustafson property.
5. DNR will invoice Jefferson County for all costs associated with the acquisition of the Allen property.

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**Attachment C**

November 15, 2012

TO: Mark Ostwald, USFWS  
FROM: Clay Sprague, DNR   
SUBJECT: Dowan's Creek Road Mitigation Parcels

This memorandum reflects the joint agreement between the United States Fish and Wildlife Service USFWS and the Washington State Department of Natural Resources (DNR) that the parcels described below and reflected on the attachments will meet the requirements as described in the March 14, 2002 letter (attached) to FEMA from USFWS and DNR for mitigation for the Dowan's Creek Road project. This project involves the reroute of a Jefferson County Road on DNR managed land, through occupied Marbled Murrelet habitat. As laid out in the attached letter, USFWS and DNR have agreed on four parcels in the Dabob Bay Natural Area that will provide mitigation for the Dowan's Creek Road project.

Prior to moving forward with these parcels, we made another attempt to find lands on the west side of the Olympic Peninsula in September 2012. We investigated if there were parcels that would be available along the Clearwater River in Jefferson County. We determined that the parcels of highest interest had very young forest stands and would take many decades to become habitat. Thus we are proposing that the following parcels are eligible for purchase to satisfy the intent of the March 14, 2012 letter

Parcel #1

The Allen property (#701153024) is a 5 acre parcel next to a DNR managed Natural Resource Conservation area (see attached map). This parcel is characterized by scattered conifer, some with MM platform potential amongst big-leaf maple and other hardwoods.

Parcel #2

The Denz property (#701153019) is another 5 acre parcel next to the DNR managed Natural Resource Conservation area (see attached map). This parcel is also characterized by scattered conifer, some with MM platform potential amongst big-leaf maple and other hardwoods. However there are several larger, older Douglas-fir trees with platforms and a draw with large cedar that extends to parcel #3.

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Parcel #3

The Smith property (#701153023) is another 5 acre parcel (see attached map). This parcel is also characterized by scattered conifer, some with MM platform potential amongst bigleaf maple and other hardwoods. However there is a long draw extending from parcel #2 with large cedar trees throughout.

It is our opinion that the acquisition of these three parcels satisfies the "out-of-kind" situation described in the March 14, 2012 letter. None of these parcels are currently suitable habitat, but have the capability to recruit into habitat in the future. However, they will immediately provide buffer habitat next to suitable habitat in the Dabob Bay Natural Area. These parcels could be developed for home sites if not purchased by the Department. All of these properties, as part of the natural area, would be managed permanently for older forest structure and consequently marbled murrelet habitat. All three would be acquired utilizing FEMA money provided to Jefferson County for mitigation.

Parcel #4 (optional)

The Gustafson property (#701283009), also within the Dabob Bay natural area, is a 5 acre water-front property characterized by a few scattered conifer trees within a big-leaf maple stand. This property will be considered as a back-up property to the first three in the event we have additional money left over after their purchase.

All properties purchased will contain a deed restriction or other appropriate form of documentation indicating that these properties were acquired to be managed for MM habitat as mitigation for the Dowan's Creek Road project.

If you agree please indicate by signature below.



Mark Ostwald, USF&WS

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**Between the**  
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**and JEFFERSON COUNTY**

**PROPERTY DESCRIPTION WORK ORDER**

DATE ORDERED: July 23, 2012 DATE REQUIRED: August 7, 2012

TO: Dennis J. Gelvin, PLS, Land Description & R/W Specialist

FROM: Michele Melrose PHONE: 902-1613

PROJECT: Dabob Bay NA - Allen

PROGRAM CODE: 93D

Please review the following legal description and calculate for each area (see attached title report, maps & encumbrance documents):

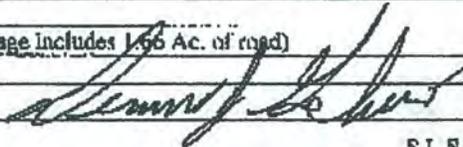
**Tract 3 of Survey recorded in Volume 5 of Surveys, on page 163, known as "Dabob View Tracts", records of Jefferson County, Washington; being a portion of Government Lot 1 in Section 15, Township 27 North, Range 1 West, W.M., Jefferson County, Washington.**

**Situate in the County of Jefferson, State of Washington.**

I have reviewed the above description, and calculated the area of the property at  
5.01 acres, as computed from the referenced record of Survey.

(Acreage includes 1.06 Ac. of road)

X



Date: July 27, 2012

S.L.S.U. File No.: I.2928 S15 T27 R1W Allen



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Peter Goldmark - Commissioner of Public Lands

**Dennis J. Gelvin, PLS 21674**  
Professional Land Surveyor  
Land Description & R/W Specialist

ENGINEERING  
1111 WASHINGTON ST SE  
PO BOX 47030  
OLYMPIA, WA 98504-7030  
PHONE (360) 902-1182  
[dennis.gelvin@dnr.wa.gov](mailto:dennis.gelvin@dnr.wa.gov)

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**and JEFFERSON COUNTY**

**PROPERTY DESCRIPTION WORK ORDER**

DATE ORDERED: May 4, 2012                      DATE REQUIRED: May 14, 2012

TO: Dennis J. Gelvin, PLS, Land Description & R/W Specialist

FROM: Michele McClure, Special Lands                      PHONE: 902-1613

PROJECT: Dabob Bay NA - Denz

PROGRAM CODE: 93D

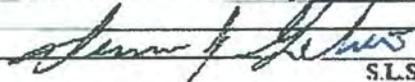
Please review the following legal description and calculate the area (see attached title report, maps & encumbrance document(s))

The North 668 feet of Tracts 7 and 8 of Survey recorded in Volume 5 of Surveys, page 165, records of Jefferson County, Washington, being a portion of Government Lot 1, Section 15, Township 27 North, Range 1 West, W.M., Jefferson County, Washington. (Dabob View Tracts)

I have reviewed the above description, and calculated the area of the property at  
**5.01** acres, as shown on the referenced R.O.S.

(This includes 0.38 Ac. within two road right of ways)

X



Date: May 9, 2012

S.L.S.U. File No.: L2928 S15 T27 R1W Denz



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Peter Goldmark - Commissioner of Public Lands

**Dennis J. Gelvin, PLS 21674**  
Professional Land Surveyor  
Land Description & R/W Specialist

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OLYMPIA, WA 98504-7030  
PHONE (360) 902-1182  
dennis.gelvin@dnr.wa.gov

**INTERAGENCY AGREEMENT**  
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and **JEFFERSON COUNTY**

**PROPERTY DESCRIPTION WORK ORDER**

DATE ORDERED: July 23, 2012 DATE REQUIRED: August 7, 2012

TO: Dennis J. Gelvin, PLS. Land Description & R/W Specialist

FROM: Michele Melrose PHONE: 902-1613

PROJECT: Dahoh Bay NA - C. Smith

PROGRAM CODE: 93D

Please review the following legal description and calculate for each area (see attached title report, maps & encumbrance documents):

Tract 4 of Survey recorded in Volume 5 of Surveys, page 165, records of Jefferson County, Washington, being a portion of Government Lot 1, Section 15, Township 27 North, Range 1 West, W.M., Jefferson County, Washington.

Situate in the County of Jefferson, State of Washington.

I have reviewed the above description, and calculated the area of the property at

5.03 acres, as shown on the referenced R.O.S.  
(This includes 0.89 Ac. in road R/W)

X *Dennis J. Gelvin* Date: August 1, 2012

S.L.S.U. File No.: L2928 S15 T27 R1W C Smith



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Peter Goldmark - Commissioner of Public Lands

Dennis J. Gelvin, PLS 21674  
Professional Land Surveyor  
Land Description & R/W Specialist

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PHONE (360) 902-1182  
[dennis.gelvin@dnr.wa.gov](mailto:dennis.gelvin@dnr.wa.gov)

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**Between the**  
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**DEPARTMENT OF NATURAL RESOURCES**  
**and JEFFERSON COUNTY**

**PROPERTY DESCRIPTION WORK ORDER**

DATE ORDERED: May 29, 2012      DATE REQUIRED: May 30, 2012

TO: Dennis J. Gelvin, PLS, Land Description & R/W Specialist

FROM: Michele Melrose, Special Lands      PHONE: 902-1613

PROJECT: Dabob Bay NA - Gustafson

PROGRAM CODE: 93D

Please review the following legal description and calculate the area (see attached title report, maps & encumbrance documents)

This portion of Government Lot 4, Section 28, Township 27 North, Range 1 West, W.M., Jefferson County Washington, described as follows:

Beginning at the southwest corner of said Government Lot 4;

Thence easterly along the south line thereof 289.5 feet more or less to the easterly boundary of said Government Lot 4;

Thence northeasterly along said easterly boundary 490 feet;

Thence north 70° west to the westerly line of said Government Lot 4;

Thence southerly along the said westerly line to the point of beginning.

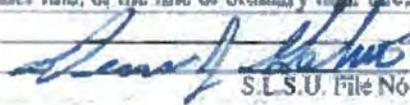
Situate in the County of Jefferson, State of Washington.

A boundary survey is required to locate the boundary lines on the ground, locate evidence of possible easements that may not be of record, and ensure the accuracy of area determination.

I have reviewed the above description, and calculated the area of the property at 5.0± acres, as computed from data in the description. (the acreage is more or less because the easterly boundary is an aquatic line, which is a moving line)

Note that Gov's Lot 4 was patented prior to Statehood, and the east boundary is the meander line, or the line of ordinary high tide, whichever is further waterward.

X



Date: May 30, 2012

S.L.S.U. File No.: L3507 S28 T27 R1W Gustafson Rev.



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Peter Gudmund - Commissioner of Public Lands

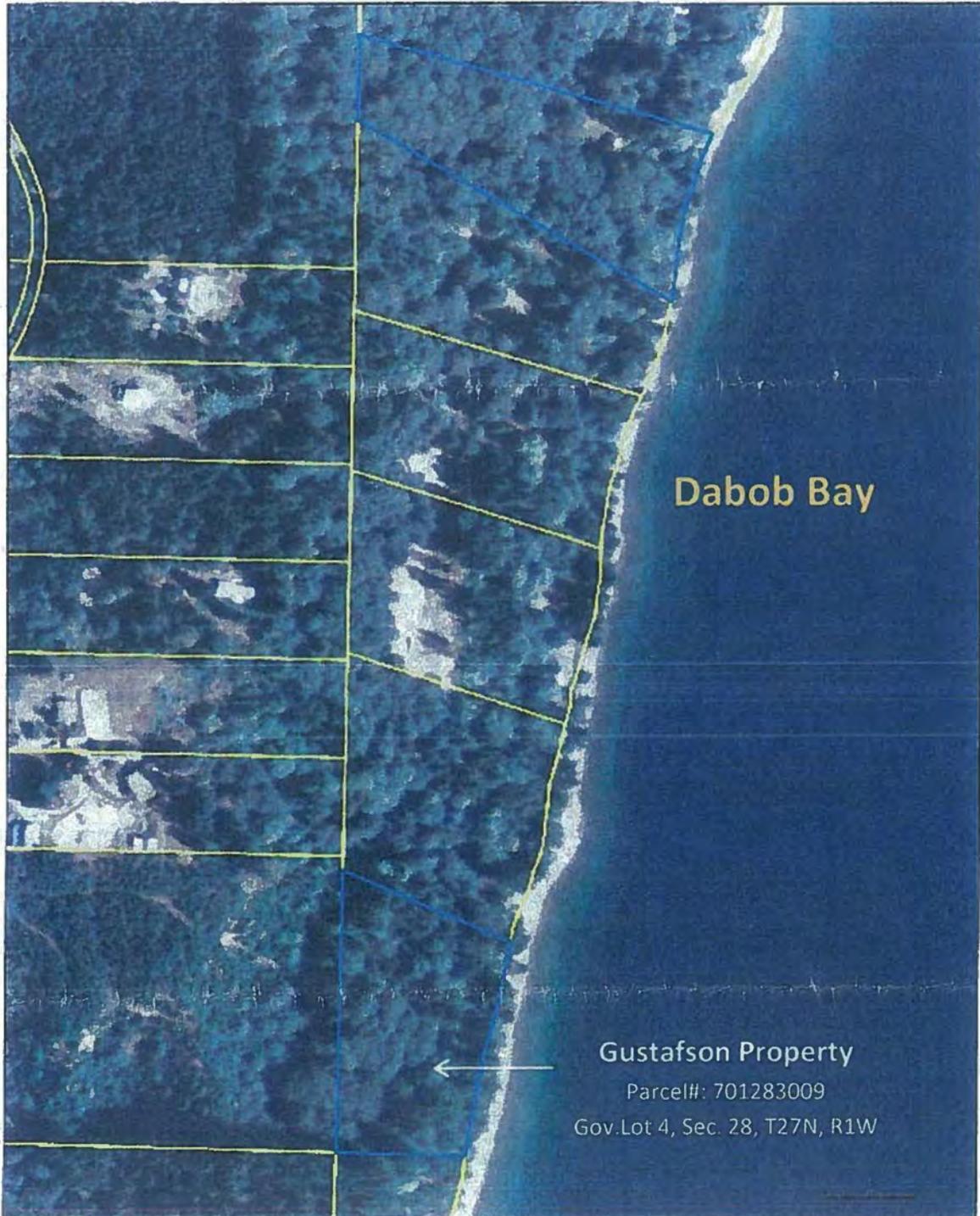
Dennis J. Gelvin, PLS 21674  
Professional Land Surveyor  
Land Description & R/W Specialist  
L3507 S28 T27 R1W Bristol

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**INTERAGENCY AGREEMENT**  
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**STATE OF WASHINGTON**  
**DEPARTMENT OF NATURAL RESOURCES**  
and **JEFFERSON COUNTY**



U.S. Fish and Wildlife Service  
510 Desmond Dr SE, Suite 102  
Lacey, Washington 98503

In Reply, Refer To:  
USFWS Reference:  
01EWF00-2012-TA-0149

United States Department of the Interior  
Fish and Wildlife Service  
Washington State  
Department of Natural Resources



**WASHINGTON STATE DEPARTMENT OF**  
**Natural Resources**  
Washington State  
Department of Natural Resources  
1111 Washington Street SE  
Olympia, Washington 98504-7000

Mark Eberlein  
Regional Environmental Officer  
U.S. Department of Homeland Security  
Federal Emergency Management Agency  
Region X  
130 228<sup>th</sup> Street SW  
Bothell, Washington 98021

Dear Mr. Eberlein

This letter concerns the Dowans Creek Road Emergency Repair Project (Project). At issue is the rerouting of the damaged road through occupied marbled murrelet (*Brachyramphus marmoratus*) (murrelet) habitat on state trust land that is managed under a Habitat Conservation Plan (HCP) by the Washington Department of Natural Resources (WDNR). The murrelet is listed as a threatened species under the Endangered Species Act (ESA). The purpose of this letter is to communicate to the Federal Emergency Management Agency (FEMA) the position of the WDNR and the U.S. Fish and Wildlife Service (USFWS) on the mitigation proposed by FEMA and Jefferson County to comply with the WDNR HCP as outlined below.

History and Purpose of the Proposed Project

The Dowans Creek Road is a single-lane gravel county road located on the south side of the Bogachiel River in Jefferson County, Washington. Jefferson County proposes to construct approximately 1,690 feet of new road on lands managed by the WDNR. The road provides access to 53 rural parcels and services approximately 9 full or part-time residences. A portion of the road, located on an old deep-seated landslide, was damaged during heavy rains in December 2007. The damaged section is approximately 120 feet above the Bogachiel River and any additional erosion is likely to cause the loss of this section of the road. Because of this circumstance and to ensure access to the lands and residences, Jefferson County determined that the best course of action was to relocate the road farther away from the river. Jefferson County qualifies for Federal assistance from FEMA to address infrastructure damages incurred during the 2007 floods.

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**and JEFFERSON COUNTY**

Mark Eberlein

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During the environmental review process for the proposed action, Jefferson County and FEMA considered several route alternatives, including upgrading existing logging roads and relocating the at-risk section of the road away from the river (preferred alternative) to avoid or minimize impacts to listed species and provide access for residents. Unfortunately, all of the alternatives that would have used existing logging roads were determined to not be viable due to significantly higher costs associated with replacing bridges, new road construction, and the increased distances for emergency response and travel times.

Jefferson County and FEMA's preferred alternative reroutes the road away from the river and constructs new road through occupied murrelet habitat on WDNR managed lands. The primary threats to the continued existence of the murrelet are the loss or degradation of suitable nesting habitat and low productivity, the combination of which is contributing to a 7.31 percent annual decline of the population in Washington. Formal consultation on the preferred alternative between FEMA and the USFWS is required pursuant to section 7 of the ESA.

The WDNR is obligated to manage state trust lands in accordance with the ESA permit issued in 1997 by the USFWS for implementation of the HCP (HCP L1). The HCP defines forest management activities that the WDNR (IV. 203) receives incidental take coverage for species listed under the ESA, including the marbled murrelet. Degrading occupied marbled murrelet nesting habitat, which this action would do, would be inconsistent with the WDNR HCP without appropriate mitigation.

For the Dowans Creek Road Emergency Repair Project to move forward as described, the WDNR HCP requires that appropriate mitigation needs to be provided (IA. 25.3 (2)). In order to meet FEMA's obligation under section 7 of the ESA to ensure its action does not jeopardize the continued existence of the murrelet, FEMA is proposing to mitigate the impacts caused by the proposed Project as described below.

Compensatory Conservation Strategy

Marbled murrelets are relatively long-lived (average lifespan is 15 yrs) and express strong site-fidelity to nesting areas. The ability of the murrelet population to recover from impacts that reduce reproductive success is extremely low. The continued loss and degradation of nesting habitat, coupled with other threats across the species' listed range, is expected to result in continued, serious declines. Federal agencies, with the assistance of the USFWS, must ensure that their actions do not appreciably reduce the likelihood of survival and recovery of the murrelet. Efforts to avoid or compensate for the loss or degradation of nesting habitat may therefore be necessary to meet this obligation.

To address the issue of new road construction in occupied murrelet nesting habitat, the USFWS, FEMA, Jefferson County, and the WDNR (Project Partners) worked cooperatively over the last three years to identify options and develop a compensatory conservation strategy that would ensure that the preferred alternative for the Project would maintain the conservation objectives of the WDNR HCP.

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**and JEFFERSON COUNTY**

Mark Eberlein

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The primary purpose of the Compensatory Conservation Strategy is to purchase and protect properties that would, either now or within a short period of time, replace the habitat function that is being impacted by the preferred alternative and protect the replacement habitat in perpetuity through transfer to the State or a Land Trust. The occupied stand that will be impacted by the preferred alternative for the Project has a stand origin date of 1934 but also contains scattered remnant older trees (most likely from the 1921 windstorm). Even though the patch of suitable habitat is relatively small (approx. 20 acres in size) and isolated, the fact that it has been determined to be occupied means that it functions as nesting habitat.

The USFWS identified the following three approaches (listed in order of priority) for identifying replacement parcel(s) for acquisition:

1. "In-kind" - same habitat function/value
  - o Occupied or suitable habitat (> 80 yrs old) threatened with removal – near the site
  - o Occupied or suitable habitat threatened with removal – far from the site
2. "Out-of kind" – not currently suitable nesting habitat, but could be suitable in the near future
  - o Future suitable habitat (approx. 50 to 80 yrs old) adjacent to larger blocks of habitat or protected areas – near the site (west side of Olympic Peninsula)
  - o Future suitable habitat adjacent to larger blocks of habitat or protected areas – far from the site (east side of Olympic Peninsula or SW Washington)
3. Young forest (<50 yrs) – this option is not considered viable because of the length of time it will take for these stands to function as suitable nesting habitat
  - o Isolated younger stands (<50 yrs old) – close to the project
  - o Isolated younger stands far from the site but adjacent to protected areas - highest mitigation ratio

**Priority 1 (In-kind Replacement of Habitat Function) Options:**

After some initial investigation, this approach was determined to be not viable for several reasons:

1. Existing privately-owned occupied murrelet habitat is already adequately protected by Washington Forest Practice Rules (222 WAC).
2. Private companies are often not interested in selling murrelet encumbered property at appraised value
3. WDNR realizes no benefit or advantage on behalf of the Trusts by accepting murrelet encumbered land as trust land and was not willing to manage small isolated properties as reserves.

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Mark Eberlein

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Jefferson County, FEMA and the USFWS then pursued options of finding land trust entities to purchase and manage conservation properties. The North Olympic Land Trust, Hoh River Land Trust and Jefferson County Land Trust were all identified as potential conservation managers and were contacted. The Hoh River Land Trust did not have any current properties on their list and most of the remaining private parcels within the land trust boundaries were too young or recently harvested stands that did not meet the priority for mitigation. Although there were more options for parcel acquisitions that had forests with the same or similar habitat functions within the service areas of the North Olympic and Jefferson County Land Trusts areas, FEMA stated that they could not fund the required endowments and/or maintenance costs associated with long-term land conservation management required by land trust entities. Thus, the options of purchasing and protecting occupied habitat close to the Project site were not feasible.

The USFWS also searched for opportunities for land acquisitions in other geographic areas (e.g. southwest Washington) that were identified as priority areas for marbled murrelet recovery within the affected recovery zone. However, this option was not viable for several reasons: 1) distance from the Project site proved problematic for both FEMA and the county, limiting the options to sites within Jefferson County and 2) trees on the parcels were too young.

Priority 2 (Out-of-kind Habitat Function Replacement) Option:

This option involves purchasing parcels for management by the WDNR under other authorities, such as Natural Area Preserves (NAP) or Natural Resources Conservation Areas. Purchasing parcels for inclusion into the Dabob Bay Natural Area, which includes both designations, meets many of the objectives of the Conservation Strategy and constraints discussed above:

1. This area has been identified by the USFWS as a priority area for ESA Section 6 land acquisitions. Many of the properties within the boundary of the Dabob Bay NAP are forested and have the potential to be suitable murrelet nesting habitat in the near future (stand ages > 50 yrs)
2. The Dabob Bay NAP is in Jefferson County and is managed by the WDNR in permanent conservation under RCW 79.70 and 79.71. This protection would be in perpetuity.
3. Although the Dabob Bay NAP is in a different murrelet conservation zone than the project location, research (radio telemetry data) indicates that murrelets nesting on the west side of the Olympic Peninsula often forage in Puget Sound. The USFWS concluded because the mitigation site could provide benefits to murrelets from both conservation zones, mitigation land located in a different conservation zone was not an issue for the Conservation Strategy.

The Compensatory Conservation Strategy relies on purchasing private forest property and transferring it to the State for permanent protection of murrelet habitat. The number or size of parcels that need to be purchased will depend on the amount of time needed for the trees on the properties to meet the definition of suitable murrelet nesting habitat.

**INTERAGENCY AGREEMENT**  
**Between the**  
**STATE OF WASHINGTON**  
**DEPARTMENT OF NATURAL RESOURCES**  
**and JEFFERSON COUNTY**

Mark Eberlein

5

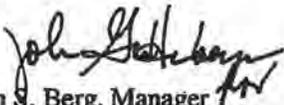
Acquisition and transfer of the replacement lands is contingent on full funding by the FEMA and Jefferson County. WDNR would receive transaction and staff costs in addition to land and appraisal costs to cover transaction and realty costs. This option would include land value equal to the current estimated market value to replace habitat loss (approximately \$200,000, depending on parcel size and habitat), plus the costs to appraise the land (estimated at \$10,000 to \$15,000) and all WDNR administrative transaction staff costs (estimated at \$10,000 to \$15,000). It would also involve a fixed level of funding for mitigation that could be transferred to the WDNR and would be used to supplement or leverage larger ongoing land acquisitions in Dabob Bay, such as those with multiple funding sources.

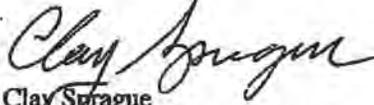
The WDNR is already working toward acquisition of multiple parcels in Dabob Bay that appear to be good candidates for mitigation as described above. Some of these acquisitions already have funding identified that would be supplemented by the FEMA mitigation dollars. The WDNR Special Lands Transactions Program will review these parcels with the USFWS and identify those to be acquired as mitigation by end of March 2012. Once WDNR and the USFWS agree on the parcels to be acquired WDNR Special Lands Transactions Program will negotiate a Purchase and Sale agreement with the sellers to acquire the property. The goal for acquisition and transfer to WDNR Natural Areas Program is by the end of 2012.

In summary, we think the Priority 2 Option is the most viable approach for FEMA to implement and all of the affected parties support this option. Either option, if implemented as characterized above, will assist FEMA to comply with the ESA section 7 obligations and maintain the integrity of the WDNR HCP. If the mitigation opportunities in the Dabob Bay NAP do not work out for some reason, the option of protecting currently suitable or near-suitable murrelet habitat using a land trust or other WDNR authorities may need to be explored further.

If you have any questions regarding this letter, please call Martha Jensen of the Service at (360) 753-9000, or Clay Sprague of the WDNR at (360) 902-1788.

Sincerely,

  
Ken S. Berg, Manager  
U.S. Fish & Wildlife Service  
Washington Fish and Wildlife Office

  
Clay Sprague  
HCP Implementation Manager  
Department of Natural Resources

3/14/12



**Upon Recording Return To:  
Conservation Lands Acquisition Program  
Asset and Property Management Division  
Department of Natural Resources  
P.O. Box 47014  
Olympia, WA 98504-7014**

**Document Title: Notice of Mitigation Agreement  
Grantor: State of Washington, Department of Natural Resources  
Grantee: None  
Legal Description: Ptn. Gov't Lot 4, Section 28, Township 27 North, Range 1 West, W.M.  
Jefferson County, Washington  
Assessor's Parcel No.: 701153024**

**NOTICE OF MITIGATION AGREEMENT  
Dabob Bay Natural Area – Allen/Trotter Property  
For Dowan's Creek Road Emergency Repair Project Mitigation**

THE STATE OF WASHINGTON, acting by and through the Department of Natural Resources, ("DNR") is the owner of real property located in Jefferson County, State of Washington, more particularly described in Exhibit A, as attached hereto and made part hereof (the "Property"). The Property consists of 5.01 acres.

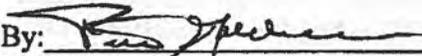
Notice is hereby given that DNR has agreed to use the Property, managed as the State's Dabob Bay Natural Area pursuant to Chapter 79.71 RCW, as mitigation for Jefferson County's Dowan's Creek Road Emergency Repair Project (hereinafter "Project"). Jefferson County determined that the Dowan's Creek Road should be realigned onto DNR managed land and through an occupied marbled murrelet site. Mitigation for the impacts of this project have been agreed to by the U.S. Fish and Wildlife Service (hereinafter "USFWS") and DNR. The Property is part of the mitigation required and described in a letter dated March 14, 2012, to the Federal Emergency Management Agency (hereinafter "FEMA") from USFWS and DNR, copies of which are kept on file at the offices of USFWS, 510 Desmond Drive SE, Suite 102, Lacey, WA 98503, and at the offices of DNR, 1111 Washington Street SE, PO Box 47014, Olympia, WA 98504. The Project utilized FEMA funding provided to Jefferson County.

DNR hereby agrees to manage its interest in the Property in perpetuity, as part of the Dabob Bay Natural Area and specifically to be managed for older forest structure and marbled murrelet habitat. DNR shall not dispose of, exchange, encumber its title or other interests in, or convert the use of the Property without the consent of USFWS, or its successor agencies.

In witness whereof the State has set its hand and seal this 28<sup>th</sup> day of August, 2013.

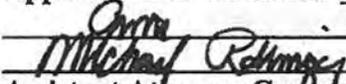
STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

Dated: Aug 24, 2013

By:   
Peter Goldmark  
Commissioner of Public Lands

Affix the Seal of the Commissioner of  
Public Lands



Approved as to Form this 24 day of  
August, 2013.  
  
Assistant Attorney General  
State of Washington

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF THURSTON )

On this 28<sup>th</sup> day of August, 2013, personally appeared before me Peter Goldmark, to me known to be the Commissioner of Public Lands for the State of Washington, who executed the within and foregoing instrument on behalf of the State of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the state of Washington for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the State of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Kelli Parks  
Notary Public in and for the State of Washington,  
residing at Lacey, WA  
My appointment expires 8/1/2017.

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES**

**EXHIBIT A**

**(Dabob Bay NA – Allen/Trotter Property)**

Tract 3 of Survey recorded in Volume 5 of Surveys, on page 165, known as "Dabob View Tracts", records of Jefferson County, Washington; being a portion of Government Lot 1 in Section 15, Township 27 North, Range 1 West, W.M., Jefferson County, Washington.

Situate in the County of Jefferson, State of Washington.

**Upon Recording Return To:**  
**Conservation Lands Acquisition Program**  
**Asset and Property Management Division**  
**Department of Natural Resources**  
**P.O. Box 47014**  
**Olympia, WA 98504-7014**

**Document Title: Notice of Mitigation Agreement**  
**Grantor: State of Washington, Department of Natural Resources**  
**Grantee: None**  
**Legal Description: Ptn. Gov't Lot 4, Section 28, Township 27 North, Range 1 West, W.M.**  
**Jefferson County, Washington**  
**Assessor's Parcel No.: 701283009**

**NOTICE OF MITIGATION AGREEMENT**  
**Dabob Bay Natural Area – Gustafson Property**  
**For Dowan's Creek Road Emergency Repair Project Mitigation**

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Notice is hereby given that DNR has agreed to use the Property, managed as the State's Dabob Bay Natural Area pursuant to Chapter 79.71 RCW, as mitigation for Jefferson County's Dowan's Creek Road Emergency Repair Project (hereinafter "Project"). Jefferson County determined that the Dowan's Creek Road should be realigned onto DNR managed land and through an occupied marbled murrelet site. Mitigation for the impacts of this project have been agreed to by the U.S. Fish and Wildlife Service (hereinafter "USFWS") and DNR. The Property is part of the mitigation required and described in a letter dated March 14, 2012, to the Federal Emergency Management Agency (hereinafter "FEMA") from USFWS and DNR, copies of which are kept on file at the offices of USFWS, 510 Desmond Drive SE, Suite 102, Lacey, WA 98503, and at the offices of DNR, 1111 Washington Street SE, PO Box 47014, Olympia, WA 98504. The Project utilized FEMA funding provided to Jefferson County.

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In witness whereof the State has set its hand and seal this 28<sup>th</sup> day of August, 2013.

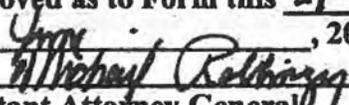
STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

Dated: Aug 28, 2013

By:   
Peter Goldmark  
Commissioner of Public Lands

Affix the Seal of the Commissioner of  
Public Lands



Approved as to Form this 24 day of  
June, 2013.  
  
Assistant Attorney General  
State of Washington

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF THURSTON )

On this 28<sup>th</sup> day of August, 2013, personally appeared before me Peter Goldmark, to me known to be the Commissioner of Public Lands for the State of Washington, who executed the within and foregoing instrument on behalf of the State of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the state of Washington for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the State of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Kelli Parks  
Notary Public in and for the State of Washington,  
residing at Lacey, WA  
My appointment expires 8/1/2017.

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES**

**EXHIBIT A**

**(Dabob Bay NA – Gustafson Property)**

That portion of Government Lot 4, Section 28, Township 27 North, Range 1 West, W.M., described as follows:

Beginning at the Southwest corner of said Government Lot 4;  
Thence easterly along the south line thereof 289.5 feet more or less to the easterly boundary of said Government Lot 4;  
Thence northeasterly along said easterly boundary 490 feet;  
Thence north 70° west to the westerly line of said Government Lot 4;  
Thence southerly along said westerly line to the point of beginning.

Situate in the County of Jefferson, State of Washington.