



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Salem District Office
1717 Fabry Road S.E.
Salem, Oregon 97306
<http://www.or.blm.gov/salem/>



In Reply Refer To:
1840 - 5409 (ORS040)
Airstrip Thinning Timber Sale
ORS000-TS12-501

CERTIFIED MAIL NO. 7010 0780 0002 3153 1958
RETURN RECEIPT REQUESTED

JUN 27 2012

Ms. Brenna Bell
Bark
P.O. Box 12065
Portland, OR 97212

Dear Ms. Bell:

I received your letter on behalf of Bark protesting my decision to sell the Airstrip Thinning timber sale (TS12-501). Your letter, received January 26, 2012, was timely given procedure and regulations for protests as outlined at 43 CFR 5003. This letter is my protest decision on the Airstrip Thinning timber sale.

The Airstrip Thinning timber sale is comprised of harvesting approximately 207 acres (201 acres of thinning and 6 acres of clearing landings and road rights-of-way) of timber stands with a general average age of 60 to 90 years. The proposed action applies the management direction contained in the 1995 *Salem District Record of Decision and Resource Management Plan* (RMP). The RMP incorporates, as management direction, the standards and guidelines of the 1994 *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl* (NWFP) and related amendments. This project is within the Matrix and Riparian land use allocations as described in the RMP and the NWFP. The EA adequately analyzed the 207 acres of timber harvest in the Airstrip Thinning timber sale.

BLM received seventeen comment letters/emails/postcards during the EA comment period. Our records include your comments on the EA in a letter dated June 29, 2011. I signed the Decision Rationale (DR) for the Airstrip Thinning timber sale on January 11, 2012. I included my specific responses to substantive public comments (including yours) in section 10.0 of the Airstrip Decision Rationale. I have carefully reviewed your protest. Topics addressed in your letter and my interpretations of your concerns are in italics, followed by my response. I will respond to the concerns Bark states in the order they are presented in the letter.

1. Compliance with RMP Standards for Snags and CWD

- a. Bark asserts that *Snags and CWD currently do not meet RMP standards.* (Protest p. 2, lines 24-32, 36-39; p.3, lines 8, 14-15, 17-18; p. 4, lines 6-7, 15-17, 31-32, 36-39; p. 5, lines 3-5)

Response to #1a: The Airstrip project currently does not meet RMP snag and CWD retention standards. However, RMP snag and CWD retention standards apply to regeneration harvest of forest stands. When large snags and CWD are deficit, the thinning prescriptions are designed to put the forest stands on a trajectory to develop large snags and CWD so the standards and guidelines can be met at the time of regeneration harvest. Airstrip is a thinning, not a regeneration harvest.

While there is not a simple declarative statement in the RMP that the snag and CWD retention requirements apply to management actions at regeneration harvest, and not for commercial thinning, a careful examination of the entire context of the subject in the RMP provides ample evidence for this understanding.

The following logic track, which is supported by the Northwest Forest Plan (NWFP) Record of Decision (ROD) and the Final – Salem District Resource Management Plan/EIS (RMP/FEIS), shows how the BLM consistently applies these snag and CWD retention levels to regeneration harvest, and how commercial thinning, including the Airstrip Thinning project, helps to put these stands on a trajectory to implement RMP standards.

Bark’s argument attempts to apply RMP snag and CWD retention standards to all stands at all stages of development instead of applying them to regeneration harvest as intended in the RMP. The Protest p. 4, lines 15-17 states *“Bark disagrees that the effects are within the effects analyzed in the RMP/FEIS because the proposed action will violate the snag retention standards set out in the RMP.”*

The Bark protest states: *“As there are already fewer snags in the project area than the minimum amount required by the RMP, removal of any more snags would create greater impacts than analyzed, anticipated or allowed by the RMP.”* The following analysis of the actual intent of the RMP shows that Bark’s arguments which are based on the Airstrip Thinning project not meeting RMP “requirements” are without merit.

RMP Appendix D (D-1 – D-2) describes the normal management cycle of silvicultural treatments for forest stands in the General Forest Management Area (GFMA) portion of the Matrix LUA, which provides context for understanding the sections dealing with snag and CWD retention: (The following terms are from the RMP, explanations were written for this document.)

- **Regeneration Harvest** – The existing stand of trees is removed, except for green trees retained for specific purposes. In the RMP, “regeneration harvest” and “timber harvest” are used synonymously. In at least one case (p. 48) “harvest” is used interchangeably with “regeneration harvest”. Starting the management cycle of silvicultural treatments with regeneration harvest provides a parallel organizational structure throughout the document.
- **Site Preparation** – Preparing the site for reforestation, usually by burning, or mechanical or hand slash treatments.

- **Reforestation** – Usually planting seedlings to supplement natural seeding by seed trees, shelterwood trees, or adjacent stands.
- **Management of Young Stands** – Pre-commercial thinning (PCT) is the most common silvicultural treatment for young stands. May also include brush control/release, fertilization, or other treatments.
- **Commercial Thinning (CT)** – Removing some of the merchantable trees from well-stocked or overstocked stands where density reduction is needed to maintain good diameter growth rates, live crown ratios, and stand stability. In some places in the NWFP ROD, RMP/FEIS and RMP “commercial thinning” and “partial-cut harvest” are used interchangeably. In other places in these documents “commercial thinning” is one of several types of “partial-cut harvest” silvicultural treatments. In both cases in these documents, they are used to denote the silvicultural system rather than the actual logging.

With this silvicultural management cycle in mind, the next step in understanding the RMP standards for snag and CWD levels is to see how the elements of the silvicultural cycle and the RMP directions for snag and CWD management fit together.

Snag and CWD management are addressed primarily in these sections of the RMP: Matrix, pp. 20-22; Wildlife Habitat, pp. 24-27; Timber Resources, pp. 46-48; and Appendix D - Silvicultural Systems and Harvest Methods, pp. D-1 – D-6. The Matrix, Wildlife Habitat and Timber Resources sections have a similar organization and treatment of snag and CWD management issues with some differences suitable to the topic being emphasized. We will also show that the discussion in these sections parallel the management cycle of silvicultural treatments in Appendix D. Appendix D also provides some specific direction for snag and CWD management.

Each of these three RMP sections (Matrix, Wildlife Habitat and Timber Resources) begins with discussion of snag and/or CWD management when conducting “timber harvest”. Context shows that in these sections “timber harvest” refers to “regeneration harvest”. Commercial thinning is among the “other silvicultural activities” that may be done during the life cycle of a timber stand. “Cutting area” and “timber harvest unit” are used in the context of regeneration harvest.

- “Timber harvest” and “other silvicultural activities” on p. 21, column 1 are separate types of silvicultural treatment, as they are also distinct in Appendix D.
- In the introductory paragraph of the CWD discussion on p. 21, column 1 it says that “Down logs will reflect the species mix of the **original stand**” (emphasis added), indicating that “timber harvest” removed the original stand.
- “Partial harvest” is separated from “timber harvest” as a separate type of treatment.
- The three bullets under “retain green trees and snags...” use “timber harvest unit” and “regeneration harvest unit” interchangeably as they build on and clarify each other. (p. 21, column 2)

- The first bullet paragraph under the direction for CWD describes material to be left “in a cutting area” and that this material should “[reflect] the species mix of the original stand”. Both of these terms indicate regeneration harvest, as distinct from “partial harvest” in the second bullet paragraph.

The Management Actions/Direction for Wildlife Habitat in the Matrix (GFMA portion, RMP p. 25) uses the same paragraph as on p. 21 to describe snag retention “within a timber harvest unit”. Additional direction is provided in column 2, p. 25 as:

- “Retain six to eight green conifer trees per acre after regeneration harvest...to contribute to stand diversity.” This is immediately followed by direction to retain green trees as source material for future snags.
- “In addition to the previous green tree retention...retain green trees for snag recruitment in harvest units where there is an identified...snag deficit.” This is then followed by the same paragraph concerning CWD as used on p. 21, column 1, bullet paragraph 1.

The Management Actions/Direction for Timber Resources in the Matrix (RMP pp. 46-48) refers the reader to Appendix D. The organization of the text then follows the same organization and sequence of the timber stand life cycle presented in Appendix D and described above.

- The first section – General – beginning on p. 46, column 1 says to “Conduct timber harvest so as to:”, then it repeats the paragraphs for CWD and snag retention used on pp. 21 and 25 as discussed above. This, again, refers to regeneration harvest.
- In column 2, p. 46, the RMP again makes a distinction between “timber harvests and other silvicultural treatments”.
- The next section heading – Timber Harvest and Site Preparation – links RMP use of the term “timber harvest” with “regeneration harvest”, since “site preparation” only makes sense in the context of “regeneration harvest”.
- The next heading – Planting – continues the parallel structure with Appendix D, directing the BLM to “Ensure that harvested areas are reforested...” Again, “harvested areas” are linked with “regeneration harvest” because “reforested” only makes sense in the context of “regeneration harvest”. (Note also that planting nursery-grown seedlings and artificial seeding are supplements to natural seeding, and that all three methods are considered “planting” for establishing managed stands, also referred to as “plantations”.)
- The next heading – Plantation Protection, Maintenance and Release – does not contribute directly to clarifying the RMP use of the terms related to “timber harvest”, but does continue the parallel structure with Appendix D.
- The last heading under Management Actions/Direction – Matrix is Intensive Practices, p. 49, column 1. Commercial thinning is clearly listed among “intensive practices”, not “timber harvest” as used in the RMP.

The next major heading, Management Actions/Direction – General Forest Management Area, p. 48, columns 1 and 2, also uses “regeneration harvests” and “harvest” synonymously, and refers to the operational area as “harvest units”.

Appendix D also provides some specific direction for snag and CWD management.

- Under the heading “Commercial Thinnings” (D-2), one of the objectives for commercial thinning is “to accelerate development of trees which can later provide large-diameter snags and down logs”. This is logically in preparation for meeting snag and CWD retention/creation levels at regeneration harvest. It is not a direction to maximize stock for snags and down logs as rapidly as possible, as shown below in the third bullet item of this section.
- Under the heading “Management of Overstory Trees, Snags, and Large Woody Debris” (D-2), guidance is “During partial-cut or regeneration harvests, existing snags would be reserved from cutting whenever feasible to the extent necessary to meet snag habitat objectives.” The next sentence provides some clarification of “whenever feasible” – “Some snags may need to be removed, however, for road construction, for safety reasons, or to make way for log yarding in some situations.” It also says that additional treatments may be done to green trees “...over time to help meet long-range goals for snags and large woody debris.”
- Under the heading “Partial-cut Harvest Design” (D-3), acknowledges that “In other [thinning] areas, many of the larger co-dominant and dominant trees may also be removed.”

Therefore, the snag and CWD levels which are requirements at regeneration harvest are appropriately described as “desired levels” (DR, p. 34) at this stage of stand development and for commercial thinning treatments.

In conclusion, the Airstrip Thinning selected action will not result in significant impacts to snags and CWD because it meets RMP guidance by placing the stands on the trajectory toward meeting RMP snag and CWD retention guidelines at the time of regeneration harvest by:

- Retaining 90 percent of the large snags within the project area (EA p.32, Project design feature [PDF] #41). The intent is to protect as many of the large snags as possible. However, in the course of complying with safe logging regulations, up to 10% of the large snags may be felled;
- Retaining all conifer trees larger than 36 inches diameter (DBH), except trees felled to meet safety regulations. Felled trees would be left on site as CWD (EA p.32, PDF #37);
- Retaining old growth trees and protecting them from logging damage that would potentially affect the health or function of the trees (EA p.32, PDF # 36);
- Retaining sufficient green trees to make up for deficits in snag and CWD levels at regeneration harvest. (RMP pp. 21, 25, 4, 6, EA p. 50 – Table 9);
- Removing the smaller and less healthy trees from the stand, which will increase the average diameter of the forest stand (EA p. 48); and
- Removing smaller trees, which will decrease competition for site resources (light, water, nutrients), thereby increasing diameter growth rates on retained trees, resulting in larger trees available, which would become source material for large diameter dead trees (snag or CWD) (EA pp. 46, 50, 73,79).

Because the BLM has demonstrated that Bark's premise that the RMP snag and CWD retention levels apply to commercial thinning in the Airstrip Thinning project is inaccurate, there is no further need to address the specific comments in the context of whether the BLM met "requirements".

- b. Bark asserts that *The selected action reduces snag and CWD levels further, especially by:*
- *Felling two large snags adjacent to the right-of-way (r-o-w) in Unit 2 (and likely felling several more snags than the two identified in the EA and DR.. Removal of these two snags would have an incredibly significant impact on cavity nesters (Bark Protest p. 3, lines 20-25, footnote 2);*
 - *Impacting CWD in the right-of-way in Unit 2 (Bark Protest p. 5, lines 1-5); and*
 - *Impacting up to 10 percent of existing snags and CWD by logging (Bark Protest p. 2, lines 40-41)*

Response to #1b: The EA provided sufficient information on snags and CWD potentially affected by the proposed action for me to make an informed decision between alternatives, as required by NEPA. The DR documented this decision. The following paragraphs cite and summarize EA and DR references and provide detailed information to link directly to the Protest.

The EA (p. 73) and DR (p. 35) describe two large (60 inch diameter) snags to be felled in or immediately adjacent to the right-of-way for unit 2. Bark's EA comment letter (undated, received by BLM on or about June 29, 2011) addresses these two snags and refers to "several more" that Bark presumes would "likely" be felled. The photo caption on page 4 of Bark's comment letter is "Bark volunteers between 2 large snags in 7B R.O.W." and BLM has identified the location of the photo. Footnote 3 describes two of the snags with enough detail to identify them specifically. The Protest restates some of these points verbatim, including the footnote, identified above.

The EA (pp. 69-70) also describes and enumerates "the presence of residual old-growth trees, snags, CWD...determined from stand exam data and...summarized in [the table] below." The EA also describes direct impacts to old-growth and large diameter trees, snags, and CWD (pp. 73-74).

Bark's presentation of these facts primarily restates information provided in the EA (pp. 69-70 (Affected Environment) and 73-74 (direct Environmental Effects to old-growth and large diameter trees, snags and CWD)). Bark does not present any new, accurate information. Information BLM provided in the EA was also described in the FONSI (DR p. 17) and was referenced and summarized, and additional explanation provided in the DR Response to Comments (pp. 34-35).

The BLM examined the right-of-way in unit 2 (EA unit 7B) and adjacent area and presents the following additional detail to precisely link EA and DR descriptions with Bark's descriptions of specific snags, CWD and trees.

The information below was summarized in the EA, as cited in the paragraph above, at a level that was sufficient to inform me of the issues (two large snags to be felled, up to 10% of smaller snags potentially impacted, no old-growth trees to be felled, some existing CWD to be impacted) and environmental effects. BLM field personnel assessed the safety of snags and green trees near proposed roads for the EA based on observed lean, soundness and apparent stability. The BLM accepts this assessment as sufficient for determining which trees may need to be cut to analyze potential environmental effects. The final decision to cut a snag or tree (or to leave it standing) is made by the operator and approved by the BLM Authorized Officer according to Oregon OSHA rules and site conditions when the road is constructed.

- P₂ 15+95¹ (approximate) – Douglas-fir snag, immediately adjacent to south edge of right-of-way, 60 inches diameter (measured), 100 feet tall to broken top (estimated), char on bark to 40-50 ft., no limbs, leans approximately 2 degrees toward right-of-way. This is one of the snags analyzed in the EA for falling and corresponds to the second snag described in footnote 2 of Bark’s protest letter.
- Two green, old-growth Douglas-fir trees are approximately 30 feet south of the right-of-way between P₂ 15+95 and P₂ 17+20 will not be felled since these trees will not potentially endanger people on the road or be affected by the road.
- P₂ 17+20 (approximate) – Douglas-fir snag, 24 feet south of right-of-way (measured), ~60 inches diameter (estimated), 42 feet tall (measured), will not be felled because it does not potentially affect road. The location of this snag corresponds to the first snag described in footnote 2 which Bark incorrectly assumes will be felled.
- P₂ 26+80 (approximate) – Two green Douglas-fir trees, both 52 inches diameter (measured), the clear distance between them is 22 feet (measured) and the road would pass between them. The road-bed will be built up rather than bladed down so the roots will be cushioned and the trees will not be killed or structurally damaged (based on BLM observations of other old growth trees with roads built adjacent to them in other parts of the Resource Area). These two green trees are incorrectly labeled as “snags” in the photo caption on p. 4 of Bark’s comment letter.
- There is another old-growth Douglas-fir tree, estimated to be 60 inches diameter, approximately 60 feet south of the right-of-way near the above location. This tree will not be affected by the road and will not be felled.
- P₂ 26+10 (approximate) – Douglas-fir snag, 61 inches diameter (measured), 85 feet tall (rough measurement), plumb or very slight lean to north, light char to 10-15 feet, just within the north edge of the right-of-way. This is the other snag analyzed in the EA for falling. It was not specifically described in either Bark’s comment letter or protest.
- P₂ 29+50 (approximate) – CWD, single log 36 inches diameter (estimated) crosses right-of-way, a small pile of logs apparently yarded but not removed in the 1920s is within and parallel to the right of way, little or no bark remaining. These will be moved for road construction.

¹ These numbers identify locations on proposed roads in engineering notation, and are written on the survey stakes in the field. P₂ identifies the specific proposed road. The numbers show distance from the beginning of the road: Left of the “+” is “stations”, or multiples of 100 feet; Right of the “+” is feet. So, station 15+95 is 1,595 feet.

Response to Bark’s Protest of the Airstrip Decision # DOI-BLM-OR-S040-2009-0004-EA p. 7 of 31

For the reasons described in this response to 1b and in responses to 1a and 1c, the EA provided sufficient information on snags and CWD potentially affected by the proposed action for me to make an informed decision between alternatives and to make a Finding of No Significant Impact. .

- c. Bark asserts that *the analysis of snag and CWD issues in the EA and DR is deficient, violates NEPA, and does not correctly assess the significance of impacts to snags and CWD as identified by Bark.* (Bark Protest p. 2, lines 39-41, p. 3, lines 1, 17-18, 22-29 (see also Main Point 2), 31 to p. 4 line 11; p. 4, lines 2-4, 9-11, 13-17, 32-34).

Response to #1c: Bark's claims that BLM's analysis of snag and CWD related issues is deficient "*because the proposed action will violate the snag retention standards set out in the RMP*" (p. 4, lines 14-15) and similar statements included in the list above are without merit because the snag retention standards in the RMP apply to regeneration harvest, as described previously in the response to #1a. Bark disagrees with the content and extent of the BLM's analysis, however Bark has not provided objective reasons to support their assertion that the EA analysis fails to meet the requirements of NEPA. A mere difference of opinion is insufficient to demonstrate error in BLM's decision or analysis.

BLM's analysis of snag and CWD related issues meets NEPA requirements because:

- It complies with the Standards and Guidelines (S&G) for the NWFP ROD which the RMP/FEIS analyzed. S&G C-46 states: "Specifically...no snags over 20 inches be marked for cutting... The Scientific Analysis Team recognizes, however, that safety considerations may prevent always retaining all snags."
- It complies with RMP Appendix D-2 and RMP/FEIS Appendix K-2 which states in part: "Some snags may need to be removed, however, for road construction, for safety reasons, or to make way for log yarding in some situations."
- It includes analysis by the IDT, including professional wildlife biologists, and follows the NEPA regulations described in 40 CFR 1500, that apply to environmental assessments. For example:

§1502.4(a) -The action that is proposed: The EA identified the proposed action as a commercial thinning using ground based and skyline logging systems, and providing access for logging by renovating existing roads and constructing new temporary roads. The BLM includes project design features that the IDT of professional resource specialists selected to ensure that the effects of the project would be within the effects analyzed in the RMP/EIS. (EA section 2.2)

§1502.13 - The reasons why the BLM needs to take this action (objectives): The BLM identified specific forest stands in the project area vicinity that are overstocked and need to be thinned to meet RMP objectives. These RMP objectives are summarized in the EA with cross references to the RMP and the NWFP ROD. (EA section 1.2)

§1502.23 -The scope of the decisions the BLM would make about this project and the factors that the BLM used to make our decision from among the alternatives considered: The EA presented a single project to the decision maker with two action alternatives, a no action alternative, a set of project design features, and the opportunity to require additional project design features. The decision maker could have chosen to implement an action alternative in some areas and the no action alternative in other areas. I used nine decision factors in choosing the alternative that best meets the objectives for managing resources in these stands. (EA sections 1.2.3, 1.2.4, 3.3.12)

§§1502.14 & 1508.25(b) - Consideration of other actions that would meet BLM's objectives: The EA documents that the IDT analyzed two action alternatives that would meet objectives and considered six other potential actions that they determined would not meet objectives (EA section 2.4).

§§1502.14(d) & 1508.25(b)(1) - What it would mean to not meet the objectives: The IDT analyzed this as the no action alternative for each resource. The effects of the no action alternative on snags and CWD are analyzed in EA section 3.3.5.3. In summary the BLM wildlife biologists determined that: Existing snags and CWD would remain undisturbed so there would be no short term effects to snag and CWD habitat; Suppression mortality would increase the number of snags and CWD to some degree in the short term (<20 years), most or all of which would be too small to meet habitat needs described in EA Table 12; In 20-40 years suppressed trees may reach those desired diameters before dying and becoming snag/CWD habitat; and Habitat variety related to stand structure complexity would develop more slowly without thinning than with it. This analysis is sufficient to meet NEPA requirements and Bark did not state any disagreement with the content or extent of BLM's analysis of the no action alternative.

§§1508.8, 1502.14 & 1502.16 - The effects of the proposed action (the two action alternatives were identical relative to effects to snag and CWD habitat): The EA describes the history and conditions that provide context for analyzing the potential effects of the proposed action on multiple resources in sections 3.2 and 3.3. EA section 3.3.5 analyzes effects to wildlife habitat and species, including snag and CWD habitat and the special status species that depend on them. In summary:

- The EA describes the general setting of the affected environment in section 3.2. The historical influences on forest development in the area watersheds described in EA pp. 39-41 gives context and perspective of the natural and human forces that shaped stand development. The existing watershed condition description on pp. 41-42 provides additional context. Bark did not state disagreement with BLM's description of the general setting or historical influences.
- EA section 3.3.1 describes the stand structure and development, which provides context for understanding current snag and CWD levels and for predicting future snag and CWD development. Bark did not state disagreement with BLM's description of the stand structure or BLM's analysis of the effects to stand structure, including tree growth.

- EA section 3.3.5 analyzes the project’s effects on wildlife and habitat resources beginning with a current description of habitat characteristics. Specifically for snag and CWD habitat:
 - pp. 68-69 describes general stand condition from a wildlife habitat viewpoint which identifies the relative scarcity of snags and CWD in all units of the project.
 - p. 69, Table 11 presents the numbers of snags and amount of CWD per acre in table format. This is a summary of stand exam data and gives hard data for the low amount of snag and CWD habitat.
 - p. 69, Table 12 presents the snag habitat needs for five species of woodpecker.
 - pp. 69-70 address snag and CWD habitats.
 - pp. 70-72 address individual listed, special status, and other species – some of which depend on either snag or CWD habitat.

Bark did not state disagreement with the information presented in the preceding five bullet items.

- pp. 72-74 analyzes how the project would affect habitat, including snag and CWD habitat. This analysis includes the direct effects that up to 10 percent of snags (>15” dia. x >15’ tall) and CWD (>20” dia. x >20’ long) will be directly impacted by logging. Impacts include felled, knocked over, moved, damaged or destroyed by road construction and logging operations. The EA specifically addresses felling two 60 inch diameter snags and removing CWD from the right-of-way. Bark cites these direct effects and uses the numbers presented in the EA.
- pp. 74-77 analyzes how the project would affect each of the species described in pp. 70-72. The EA analyzes impacts to Oregon slender salamander (minimally impacted); bats (impacted by loss of snags in the short term, benefited by accelerated habitat development in young stands); and mollusks (some individuals directly impacted, however species would persist). Bark does not present any specific information to show that the BLM’s analysis of these effects is incorrect, but expresses the opinion that the habitat impact is significant.
- pp. 77-79 analyzes the cumulative effects to snag and CWD habitat and to certain species, some of which use snag or CWD habitat. Bark expresses an opinion that the BLM analysis of effects to the habitats is insufficient because the BLM does not have a full inventory of snag and CWD habitat in the project area (they do not suggest an extent of the “project area” such as the block of BLM land, contiguous federal land, 6th field watershed, etc.) so in their opinion the BLM might be reducing snag habitat in the project area enough to have a significant effect on woodpecker, cavity nester and bat populations. We will address Bark’s specific objective concerns about direct effects to habitat later in this section.
- pp. 79-81 addresses the effects of the no action alternative, as described earlier.

As described above and in responses to #1a and #1b, I have determined that the Airstrip EA adequately analyzes the effects of the Airstrip project on snags and CWD. The Protest disagrees with our effects, yet does not show how these effects are incorrect.

- d. Bark asserts that *BLM did not respond to Bark's comments*. (Bark Protest p. 2, lines 20-29, 31-32, 34-36; p. 4, lines 1, 43 to p. 5, line 1)

Response to #1d: The BLM responds to the following specific points raised by Bark:

- Bark expresses the opinion (Protest p. 4, lines 2-11) that BLM cannot “*sufficiently analyze the extent of impact that the loss of these snags would have on cavity nesters and snag dependent species in the project area*” (Protest p. 4, lines 10-11) because *BLM has insufficient information as indicated by the EA statement that falling the two snags would reduce high value habitat “by an unknown percentage”* (Protest p. 4, lines 8-9).

The BLM did not calculate the percentage reduction because: 1) that level of detail is not relevant to determining “reasonably foreseeable significant impacts”; 2) that level of detail is not “essential to a reasoned choice among alternatives”; and 3) it is economically prohibitive to fully inventory snags (and CWD) in the vicinity of the project at the scale of either the 791 acre block of BLM land (EA p. 23, Table 2) or the 32,338 acres of the two project area 6th field watersheds (p. 41, Table 7). Within the 791 acre block of BLM managed land, 584 acres are not affected by the project and were not intensively surveyed for snags and CWD.

The BLM’s IDT and wildlife biologists considered this to be enough information to sufficiently analyze potential effects to these species because it is apparent from satellite imagery, Google Earth, BLM photos, and field reconnaissance that there are scattered areas of similar old-growth remnant and other large trees in the block of BLM managed land and contiguous USFS managed land surrounding and adjacent to the project area. Large snags are often associated with these observed stand characteristics and the BLM has observed some snags even though very little of the area outside of the thinning units has been formally surveyed.

The EA recognizes that there is an impact at the scale of the BLM stands analyzed which may directly impact individual animals, but that the reduction in snag habitat from this project, directly or cumulatively, will not extirpate any species nor decrease species richness in the thinning area and vicinity, and will not contribute to the need to list any BLM Special Status Species. (EA pp. 6-7, DR pp. 16-17)

- Bark expresses their opinion that BLM “tries to mitigate the loss” of snag habitat by stating that cut snags would provide CWD habitat (p. 4, lines 19-29). The BLM does not state this as a mitigation. BLM simply recognizes that both snag and CWD habitat are below desired levels and that all snags felled would be retained as CWD habitat (EA p. 73) which also provides habitat for numerous species (EA p. 70).
- Bark expresses their opinion that the lag time for recently killed trees to be useful as snag habitat and for recently felled trees to be useful as CWD should have been analyzed in the EA. The BLM considers it to be self evident, as Bark itself is already aware that decay takes time to develop in a dead tree (lag time) and that it also takes time to develop in a healthy live tree.

Since the commercial thinning project does not propose to kill trees specifically to create snags or CWD at this stage of stand development, analyzing lag time will not provide any additional information that would be important to the decision. For the few live trees (>36 inches diameter) which could be felled to facilitate operations and left as CWD, felled trees would become CWD sooner than if those trees stayed alive, healthy and standing.

Bark was one of several commenters on the EA. Commenters covered a wide range of concerns and viewpoints, often expressing views that conflicted with those of other commenters. The BLM analyzed the content of each of the comment letters and grouped comments into major themes, summarized the comments, and responded in DR section 10, pp. 24-42. The BLM summarized and responded to comments concerning Snag and CWD habitat in DR section 10.5, pp. 32-35. Many of these comments were from Bark's comment letter.

In the DR, the BLM referred the reader to the appropriate sections of the EA which answered the issues raised in comments and provided some additional details for clarity.

Bark listed those references in their Protest, so the BLM's references were apparently clear. Bark simply disagrees with BLM's conclusion and apparently holds the opinion that more, but not necessarily useful, details in the analysis will lead the BLM to agree with their conclusions.

The BLM's wildlife biologists, other IDT members, and I determined that the level and detail of the analysis, supported by the Wildlife Report incorporated by reference into the EA (p. 68), was sufficient to comply with NEPA and to use as the basis for making an informed decision between the alternatives, as documented in the DR in its entirety, and the Final FONSI (section 7.1, pp. 15-21) in particular. We have addressed Bark's substantive comments that contributed to the development of the selected action.

2. Conserving Special Status Species – Protest p. 5 line 7 to p. 6, line 26

Bark presents three main arguments in support of their opinion that BLM is not adequately conserving special status species. Bats are the only species group specifically mentioned by Bark in this section of the Protest:

- a. Bark argues that *BLM needs additional survey information to analyze effects on bats.* (Protest p. 5, lines 14-17, 28-31, 41 to p. 6, lines 1-3)

Response to #2a: The primary purpose of surveys is to find out if species are present to determine potential effects. In the absence of surveys the BLM assumes that species *are* present and analyzes effects accordingly. The EA (p. 71) states: “Four bat species of concerns are suspected to occur in low numbers in the Airstrip Thinning vicinity. These species are associated with caves, mines, bridges, buildings, cliffs and large decadent trees and snags.”

Analysis of the habitat present and the population ranges of Bureau sensitive bats was sufficient to determine that they “may be present” in the project area. The BLM did appropriate levels of survey for other special status species as well (EA pp. 38, 70-72).

This determination that the bats may be present and analyzing effects as if they are present is in compliance with policy because:

- Manual §6840.06.2.B.1 directs the BLM to “[Determine], to the extent practicable, the distribution, abundance, population condition, current threats, and habitat needs for sensitive species...” That extent is not defined. Since the BLM does not have any accepted protocols for surveying for bats roosting in snags and decadent trees, assuming that they are present is the “extent practicable” at this time.
- FSEIS (1994) Appendix J2, Table J2-2, item 13 describes Matrix Management Provisions for bats and bat habitats. It describes surveys and protection measures only for caves, mines, abandoned wooden bridges and buildings. There are no surveys or protections measures for snag and decadent tree habitat features.
- The Northwest Forest Plan Standards and Guidelines, C-43 establishes procedures for surveying cave, mine, bridge and buildings habitat, but not snag and decadent tree habitat. There are some small cliff faces (EA p. 71) and historical references to “remains of pits and a tunnel noted 1951” on mining claims on the North Fork Clackamas filed in 1934 (EA p. 89). Remains of one small structure are adjacent to the access road at the “incline” location. There are farms and commercial developments in the vicinity of the Airstrip Thinning project which are likely to have man-made structures which may be suitable roosting habitat. Since all of these are more than 250 feet from the project boundaries, they meet the interim measures for protection of roosting bats in these habitats (EA p. 31; ROD Standards and Guidelines C-43) so assuming that they are present is a suitable procedure.
- “Bat surveys are problematic and logistically challenging. Imperfect detection of calls is a fundamental challenge for acoustic bat surveys” (Rodhouse, et. al. 2011).

The BLM followed management direction with regard to bat surveys, as described above. In addition, because of the difficulty in bat surveys, the analysis assumed the presence of bats and described the potential effect to those bats that are reiterated in my response to #2c, below. Bark provides no evidence that the analysis in the EA was in error.

- b. Bark argues that *BLM is required to implement additional “conservation actions” for managing Special Status Species.*(Protest p. 5, lines 19-35, 43; p. 6, lines 1-3)

Response to #2b: The BLM is required to follow Manual §6840.06, which states:

- “Bureau sensitive species will be managed consistent with species and habitat management objectives in land use and implementation plans...”
- “...land use plans shall be sufficiently detailed to identify and resolve significant land use conflicts with Bureau sensitive species without deferring conflict resolution to implementation-level planning.” §6840.06.2.

For this project this direction was accomplished by the Land Use Allocation system in the NWFP which preserves ecosystems by placing approximately 78 percent of the planning area including western Oregon and Washington in Congressionally designated areas and reserves. The remaining 22 percent is Adaptive Management Areas and Matrix where all programmed timber harvest is planned. (NWFP p. 2).

- “...activities affecting Bureau sensitive species are carried out in a way that is consistent with its objectives for managing those species and their habitats *at the appropriate spatial scale.*” §6840.06.2.C.2 (emphasis added). This project manages this species at the appropriate spatial scale because: it is in compliance with the objectives of the RMP and the project (EA pp. 11-14, 90-98; DR pp. 9-12, 15-21), and it leaves 73 percent of this contiguous block of BLM managed land (584 of 791 acres) unaffected by management activities.

As illustrated above, special status species are managed as species and populations rather than as individuals. Populations are managed primarily by managing habitat on a landscape/ecosystem level. The ROD (p. 31) states that “... [the Standards and Guidelines] will successfully provide habitat conditions for these [bat] species.”

The Standard and Guidelines are in addition to the Land Use Allocations that reserve 78 percent of BLM land from planned timber harvest and include snag management as discussed in the BLM Response to Item 1, above. The BLM recognizes that there are instances where individuals and/or special habitat features need to be specifically managed and BLM’s wildlife biologists determine where this is appropriate on a site-specific basis. Bark provides no evidence that the analysis in the EA was in error.

- c. Bark Disagrees with BLM’s statement that “*no suitable habitat will be lost, though some will be modified.*” (Protest Letter p. 5, lines 10-17; p. 6, lines 5-11, 14-18, 23-24)

Response to 2c: Lost, as described in the FONSI (DR p. 17) was intended to be synonymous with “eliminated” as described in the EA on p. 79, which states. “Thinning in the project areas, either individually or collectively would not be expected to contribute to the need to list any Bureau Sensitive species under the Endangered Species Act (BLM 6840) because habitat for the species that is known to occur in the project areas would not be eliminated.” This description includes Bureau sensitive bats.

The EA acknowledges that bat species which use snags or large trees could be directly affected by cutting up to ten percent of large diameter trees in unit 7A and large snags throughout the project area. Falling two old-growth snags to facilitate road construction in unit 7B, each approximately 60 inches diameter, would reduce the number of large diameter snags in the project vicinity (EA pp. 76, 78). This effect is not expected to be significant to bats, primary excavators and cavity users because:

- In the Airstrip Thinning project area and vicinity, all old-growth trees (at least 200 years old – EA pp. 31, 43, 69), a minimum of 90 percent of trees 36 inches diameter and larger, and a minimum of 90 percent of snags 15 inches diameter and larger will be retained as structural components (project design feature [PDF] #41, EA pp. 31 and 73, PDF # 36, #37, and #41, EA pp. 31-32).
- Since approximately 90 percent of the large trees and snags will be retained in the project area and since only about one third of the BLM acres in the project vicinity will be treated, forest habitat features will be maintained in the area (EA p. 76). Approximately 90 percent will remain standing after operations, effectively retaining the majority of the best existing habitat features for primary excavators (woodpeckers) and secondary cavity users, including song birds, bats and small mammals (EA p. 73).

- Although thinning may reduce the amount of snags used for roosting bats, structural changes in forest stands as a result of thinning may benefit foraging bats by creating habitat structure in young stands that bats are able to use more effectively than structures in unthinned stands (Humes, Hayes and Collopy, 1999) (EA p. 76).
- Source material for large diameter snags would be available sooner than in similar unthinned stands because it takes a large diameter live tree as source material to become a large diameter dead tree (snag or CWD). An indirect result of thinning is that retained trees grow faster in diameter than trees of the same age growing in dense stands. Snag recruitment due to suppression mortality would be lower than for an unthinned stand of the same initial density and age (EA p. 73).

The EA shows that there will be loss of snag habitat (10% of the 37% of the BLM land within the sections containing thinning units, or 3.7 % of the large snags on BLM land in these sections) and provides evidence as stated above that this effect is not significant, therefore a supplemental EA is not needed. Bark provides no specific evidence that this analysis is in error.

- d. Bark advocates for the BLM to “*end construction of new road where it makes a sharp turn to the east and forego logging the southeast portion of the unit*” (Protest p. 5, lines 11-13; p. 6, lines 5-11, 14-18, 23-24).

Response to #2d: The legal direction for management of this land is primarily timber production while complying with other laws and management guidance. This area is both O&C land and Matrix LUA. “In *Headwaters v. BLM* (1990), the Ninth Circuit held that, under the Oregon and California Sustained Yield Act (O&C Act), former Oregon and California Railroad Company Lands in western Oregon are assigned timber production as a dominant use.

“The application of the special status species policy to provide specific protection to species that are listed by the BLM as sensitive on lands governed by the O&C Act must be consistent with timber production as the dominant use of those lands” (Manual §6840.06.2.E). Dropping the road construction segment that impacts these two snags would cause approximately 20 acres of unit 2 to be inoperable, so the forest stand would not be thinned and timber management objectives would not be met on those acres. These effects would not be compatible with timber production as the dominant use for these acres of Matrix LUA.

3. Impacts from Increased Erosion – Protest p. 6, lines 28-38, 45-47; and p. 7, lines 1-2

- a. *Bark disagrees with BLM’s analysis that the amount of increased erosion, compaction and displacement potentially attributable to the selected action would not be detectable and would not have negative effects on water quality and site productivity. Bark is dissatisfied with BLM’s analysis and answers to their concerns. Bark also disagrees with the analysis of impacts of increased erosion from skyline yarding, landings, hauling and ground-based yarding* (Protest p. 6, lines 33-34, 36-38, and 45-47 to p. 7, line 1).

The BLM analyzed potential direct and indirect effects to water quality (sediment and turbidity) in the Hydrology report which was incorporated by reference into the EA and summarized this analysis in the EA, pp. 60-61.

- This analysis is based on an assessment of the current status of the North Fork Clackamas River 6th field watershed water quality described on EA p. 58, drawn from USGS water quality studies, published research and personal field observations by the BLM hydrologist. Analysis of potential effects was drawn from data, research, personal observation and BLM experience with the project design features (EA pp. 29-31) included in the project implementation (on-the-ground design and contract requirements).
- The design features incorporated into the project were selected by the IDT for the project to meet or surpass water quality protections provided by the examples listed in Appendix C of the RMP. This includes design features for logging, road construction and stream crossing design.

The DR documents that the IDT and Decision Maker have reviewed this analysis and determined that the effects are not significant. This is documented in DR Section 7.1, pp. 15-21 as the Final Finding of No Significant Impacts.

- The DR describes protection measures that led to a determination that the project will not affect listed fish and their essential habitat (pp. 13-14).
- The Final FONSI (DR section 7.1, p. 16), in evaluating the intensity of potential effects (consideration 1, pp. 15-18) concludes that the effects of the project will meet State of Oregon Department of Environmental Quality (ODEQ) water quality standards, fisheries and aquatic habitat will not be negatively impacted, and project design features will prevent sediment exceeding ODEQ standards.

1) *Potential amount of erosion* (Protest p. 6, lines 31, 32, 37 and 45-46)

Response to 3a-1:

- EA p. 58 describes existing (background) levels of sediment supply of 1.75 tons/acre/year in the North Fork Clackamas River 6th field watershed and background level of surface erosion in the skyline yarding area of 0.067 tons/acre/year.
- EA p. 60 states that WEPP modeling predicts an increase in sediment yield to 0.64 tons/acre/year and states that both research (Geren, 2006) and field monitoring by the BLM hydrologist demonstrate that WEPP overestimates erosion/sediment yield. See response to #3a-3, below.

2) *Sources of sediment reaching waterways* (Protest p. 6, lines 46-47)

Response to 3a-2:

- EA p. 54 discusses the single existing road/stream intersection in the project area.
- EA p. 56 discusses the existing condition of roads increasing the stream network in project watersheds.
- EA p. 58 discusses the existing condition for sediment supply, transport and turbidity.

- EA pp. 60-61 discuss the effects of the proposed action on sediment supply, transport and turbidity, including why the BLM hydrologist concluded that sediment routed to streams would be within ODEQ standards.
 - EA p. 62 discusses the cumulative effects of sediment yield and concludes turbidity “would not be detectable on the scale of a seventh field watershed and would be unlikely to have any effect on any designated beneficial uses.”
 - EA pp. 24-25, 26-27 and 28-31 describe how the proposed action would be designed and implemented to prevent effects beyond those analyzed. For example:
 - Using the Best Management Practices (BMP) identified by the IDT for this project.
 - Using low-impact ground-based machinery designed for use on slopes up to 45 percent.
 - Stabilizing temporary roads to prevent erosion.
 - Locating skid trails and skyline corridors to avoid concentrating runoff water flows that could cause rill or gully erosion with potential to displace soil more than a few feet.
 - Lifting the leading end of all logs off of the ground during yarding (one-end suspension) to prevent the blunt ends of logs from displacing soil in order to prevent creating a channel for erosion.
 - Implementing erosion control measures where BLM management operations have exposed or disturbed soil to prevent rill or gully erosion that would displace soil more than a short distance (several feet).
 - DR pp. 7 (Table 1), 13-14 and 16 summarize why the selected action is appropriate relative to effects on water quality and beneficial uses.
 - DR pp. 30-32 summarize comments (including Bark) and responses that provide additional information on how the design and implementation of the selected action will prevent violation of ODEQ water quality standards.
- 3) *Potential effects of potential erosion predicted by WEPP on water quality* (Protest p. 6, lines 44-46)

Response to 3a-3:

- EA p. 60 describes how this increase would be such a small proportion of the background sediment yield that the difference in water quality would not be measurable in the field with current technology.
- EA p. 60 concludes that “Forest management practices would be unlikely to accelerate sediment delivery to streams in the project area beyond background levels...” for the following reasons:

EA p. 60 states WEPP has been demonstrated to over-estimate actual sediment yields in the Pacific Northwest (Geren, 2006) and BLM field reviews of similar treatment areas (Hawe, 2007) found no evidence of overland flow or sediment transport on skyline yarding corridors where WEPP had predicted sediment transport under similar conditions (>2 inches of rain in three days) (Hydrology Report p. 27); and

The latest round of monitoring, which took place after the release of the Airstrip Decision Rationale (1/11/2012), further supports this conclusion. This is shown in the following excerpts from Patrick Hawe's monitoring report for the Round Mountain Thinning timber sale, January 24, 2012. (Emphasis added for selected key points.)

“The Water Erosion Prediction Project (WEPP) soil erosion model was used to predict potential changes in erosion and sediment yield due to implementation of the proposed action in the Round Mountain sale. The WEPP model is a physically-based soil erosion model developed by an interagency group of scientists from the U.S.D.A. Agricultural Research Service, Forest Service, and Natural Resources Conservation Service and the U.S.D.I. Bureau of Land Management, and Geological Survey. Thus, the WEPP model is the *best available science* for predicting erosion from harvest units. Nevertheless, recent research indicates that WEPP over-predicts sediment yields on a watershed basis in Western Oregon (Geren, 2006). This is likely a result of an over-prediction by the WEPP model (which was calibrated in drier landscapes with far less vegetative cover) of overland flow and sediment yield on the heavily vegetated slopes of the Western Cascades.

In the Round Mountain EA we reported (the cable yarding alternative) “would increase the probability that sediment would be delivered in the first winter after treatment from 77% to 100%. In this case, sediment delivery is predicted with an annual storm event following several days of precipitation. With a storm event large enough to saturate soils and cause overland flow, the quantity of sediment eroded and delivered to the main channel could increase. The annual average (for a 30 year period) would increase by 6.96 tons/acre/year to 7.049 tons/acre/year.”

In this case, WEPP estimates exceeded what actually occurred: no sediment movement following a 100 year intensity precipitation. In addition, this is not an unusual result: after several years of making field observations of surface erosion on cable yarding units in the Cascades I have not observed a single case where any evidence of actual surface erosion and delivery has occurred.

In conclusion, for thinnings of overstocked stands on stable ground, I intend to report that no surface erosion with delivery of sediment to the stream channel is likely to occur on cable or ground harvested units.”

Hawe's monitoring report also definitively answers Bark's concern about “... *where this displaced soil will go.*” (p. 6, line 37 to p. 7, line 1) (Emphasis added).

“There was no indication or evidence of any substantial soil movement, either landsliding or surface erosion, in Unit 2. The small zones (<1 sq. yard) of exposed mineral soil dispersed through the unit on yarding trail corridors had occasional evidence of surface soil (<1/2 inch in depth) erosion.

This material was likely scoured from the surface by the force of falling precipitation. **The mineral soil moved no more than 1-2 feet before settling out in the slash and organic matter of undisturbed soil next to the exposed patches.** There was no evidence of any sheet erosion or gully erosion across the harvest unit. There was absolutely no evidence of any movement of eroded soil into the SPZ much less all the way to the stream. Based on these observations, I conclude that sediment delivery to the channel directly from this harvest unit did not occur, despite the unusually large storm event that had recently taken place.”

The above information affirms the EA and DR Response to Comments in answering #3a-1 through 3a-4.

4) *Potential impacts to site productivity from erosion* (Protest p.6, lines 30-38)

Response to 3a-4:

- EA p. 67 describes: The amount of erosion predicted by WEPP; that WEPP consistently overestimates erosion; that this amount of predicted erosion is within typical renewal rates for topsoil; the duration of the potential effects (3-5 years); and that erosion does not occur from ground based yarding areas because there is not enough slope to cause water to run and erode.
- EA p. 67 also concludes that negative effects to site productivity would not be detectable. This conclusion is based on the information provided previously on the same page and on EA pp. 48-50 which describe increased growth rates of retained trees and other vegetation compared to the No Action alternative.

5) *Potential amount of compaction and disturbance by logging* (Protest p. 6, line 36-p.7 line 2)

Response to 3a-5:

- EA p. 66 describes the scope of the ground-based yarding area potentially affected as: “...total surface disturbance and soil compaction would be approximately six to eight percent...of the project area, in skid trails and landings...” The EA gives parenthetical acres (17-23) corresponding to 6-8 percent, based on an earlier, larger area proposed for thinning. Bark questioned the acreage in their EA comments, and the BLM published updated acres plus additional information in the DR (pp. 39-40). The updated area potentially disturbed and compacted from ground-based yarding (including landings) is 10-13 acres (DR p. 40).
- EA p. 66 similarly describes the scope of skyline yarding area potentially affected as: “the disturbed and compacted are[a] would range from three to seven percent...in landings and skyline corridors.” The EA listed 9-20 acres as corresponding to 3-7 percent compacted/disturbed area. The updated area potentially disturbed and compacted from skyline yarding (including landings) is 4-9 acres (DR p. 40).

- The same section also reports that much of the ground impacted by these operations is the same skid trails used in previous operations and also that some modern logging techniques may have less impact than the amounts reported above.
- DR pp. 39-40 corrects percentage and acreage calculations for compacted area.
- EA p. 67 states that no measurable reduction in overall growth and yield due to compaction and disturbance would be expected, based on extensive experience with similar projects.
- Compaction and displacement are primarily important as they affect site productivity (tree growth) and the potential for increased erosion. Site productivity and erosion are discussed above. Other resources potentially affected which were addressed in the EA include: EA p. 50 - invasive/non-native plant species; EA p. 56 – project area ground water; EA pp. 6, 66 – mycorrhizae populations.

For the reasons described above, the Airstrip EA adequately analyzed the effects of the project on erosion and compaction. Bark provides no specific evidence that the analysis is in error.

- b. Bark states that they do not think BLM addressed their concerns or provided the analysis they requested (Protest p. 7, lines 1, 2).*

Response to #3b: The BLM summarized and responded to Bark’s comments and concerns along with those from other commenters in DR section 10.4, pp. 30-32, Water Quality and ACS Objectives; and DR section 10, pp. 39-40, Soil Impacts and Other Resource Damage. The issues that Bark identified in Protest p. 6, line 28 to p. 7, line 2 were all addressed as shown in detail above. Bark did not offer any evidence to show that BLM’s analysis was incorrect.

The listing and summary of EA analysis presented above clearly demonstrates that Bark simply disregarded BLM’s analysis. Since Bark did not provide any objective analysis to show any error in BLM’s analysis it is apparent that Bark either did not read the EA carefully, or that Bark simply disagrees with BLM’s conclusions and does not recognize as valid any analysis that disagrees with their position.

4. Stream Crossing and Sediment – Protest p. 7, line 3 to p. 7 line 43

Bark disagrees with BLM’s analysis of the effects of the road and temporary stream crossing in section 18, particularly sediment and water quality. Bark is dissatisfied with BLM’s answers to a series of questions which they reiterate in this section (p. 7, lines 7-43).

Response to 4: Bark accurately describes the stream at the crossing location as “run[ning] through a trough approximately 4 feet deep and 12 feet wide”. However, they characterize this as a “unique feature [that] appears to require an enormous amount of fill...” that “seems like it will be a significant source of fine sediment”.

Bark stated that it is unclear to them how the BLM intends to stabilize it (the fill) and requested detailed plans for the crossing and the impacts of this fill on water quality. (Protest p. 7, lines 11-20)

While Bark's basic description of the setting and its dimensions are accurate, this is not a "unique" or particularly large scale feature that would require an uncommon amount of fill or warrants any particular description beyond "a small stream".

The BLM is required by law to comply with the Clean Water Act (EA p. 17), administered by the Oregon Department of Environmental Quality (ODEQ). Project design features (PDF) addressing water quality are in the EA pp. 29-31 and PDF addressing erosion and compaction are summarized in the response to #3. The BLM engineering staff has extensive experience designing roads and stream crossings to ensure compliance with these standards. Detailed engineering specifications for each site as described in the timber sale contract may help with understanding "how" these standards will be met, but do not change that the EA and DR are written within the context that the BLM will comply with the law.

The BLM provided adequate site specific analysis to support its conclusion that the selected action will not have significant impacts and provided enough information in the EA for an objective reader to understand the nature of that analysis.

Additional details were available for public review in specialist reports, especially Hydrology and Fisheries, at the Salem District office during the EA comment period but Bark did not request an opportunity to review these documents. Bark reiterates a series of *five specific questions about the road and sediment* (Protest p. 7, lines 22-27). Bark complains that the BLM did not address their questions (Protest p. 7, lines 6-7). We combined the basic concepts of these questions with those presented by other commenters (and other sections of Bark's 15 page comment letter with its "many questions" (Protest p. 9, line 20) in the DR pp. 30-31, 38-40. We directed the reader to the appropriate sections of the EA where the issue was addressed, then explained additional items. Bark did not acknowledge any of the EA analysis or clarification in the DR. We will point out answers already given and explain other things in additional detail in the following paragraphs.

- *"Will this [natural surface] road be left over winter? (Protest p. 7, lines 22,23) "If so, how can the BLM ensure that it will not be a major source of sediment to the small creek?" (Protest p. 7, lines 23,24)*

The Decision Rationale (DR p. 16) and timber sale contract Exhibit C (section 3303) of the contract call for the stream crossing to be installed, used and removed between July 15 and August 30 of the same year. This is the normal process where temporary roads are built, used and stabilized in the same season, but sometimes harvest cannot be completed for a variety of reasons and the road must be held over winter before it is closed and stabilized. In rare cases however, unforeseen circumstances such as fire closures followed by early fall rains disrupt the normal process so the EA recognizes a chance that the road could overwinter, though the DR decision is that the crossing would not overwinter. When this happens, BLM engineering staff assesses the site specific needs and will implement PDF # 32 (EA p. 31), which states:

When natural surface roads would be kept intact over winter for use on this project the next year, stabilize the road to prevent erosion and sediment transport to streams. Methods may include: matting, mulching, constructing water bars or other surface shaping to drain runoff water to vegetated slopes, seeding, sediment traps and blocking the entrance to prevent unauthorized motor vehicle use.

Our experience with successfully stabilizing similar roads is the basis for our determination that turbidity levels would not exceed ODEQ standards (EA pp. 61-62). Bark's question was included in the DR Response to Comments section 10.4, p. 30, summarized (with other related comments) as: "Opinion that the EA is unclear on how the 9 ACS Objectives are met. Particular mention of road construction in RR in section 18..." and on p. 31 as: "Questions analysis of sediment caused by the temporary stream crossing in section 18." We responded on DR pp. 31-32 with how we analyzed the entire range of sources of sediment in the EA and that the EA shows that all of these sources combined would be within ODEQ standards.

- *"When the crossing is removed, will all the fill from the trough also be removed?"* (Protest p. 7, lines 24, 25)

Yes. The EA (p. 27) addressed this issue by stating that "The stream crossing...will be removed after logging operations in unit 18 A are complete. The stream channel will be restored to match the natural channel dimensions upstream of the crossing..." Additional design features are listed in the EA (pp. 30-31), the effects to water quality are described in the EA (pp. 60-61) and the effects to fisheries are described in the EA (p. 64).

The Decision Rationale (DR) addressed potential effects of sediment generated from the stream crossing on pp. 16, 19, and 20. Each of these sections conclude essentially that while increased sediment would be present and visible as increased turbidity for a short time and short distance downstream, the it would not cause negative impacts to fish, aquatic habitat or other beneficial uses. Since the issue was already addressed, the DR Response to Comments ((DR section 10.4, issue and response 5, pp. 30-32) combined this and other specific questions into the summary comment "Questions analysis of sediment caused by the temporary stream crossing in section 18." See the following paragraph for additional discussion of potential for the fill to become a significant source of sediment entering the stream.

- *"If [the fill is] not [removed], isn't it likely that when the stream swells in the winter that all the fill material will enter the stream system?"* (Protest p. 7, lines 25 ,26)

The EA describes this stream on p. 53 as "In section 18 springs emerge from the base of the escarpment and form low gradient stable channels that flow through wetlands between ...the two thinning units. This type of channel...easily adjusts to changes in flow, sediment supply or vegetation, but this channel has stream flows less than 1 cubic foot per second (cfs) much of the time and the channel is not subject to high energy flows that would be likely to cause such changes." The BLM did not "answer" this question because the hydrology of the stream had already been described in the EA. Since this channel "is not subject to high energy flows" due to the small drainage area and landform, it physically cannot "swell" enough to erode material outside of the stream's small channel.

- “*What would this impact be?*” (Protest p. 7, lines 26, 27)

The answers to this question were already presented in the EA and DR, so the BLM did not separately answer this question again in the DR Response to Comments. Summaries of these answers include:

- EA p. 53 – “This type of channel...easily adjusts to changes in...sediment supply...”;
- EA pp. 60-60 – “Installing and removing [this] culvert...would locally increase turbidity...[<1/2 mile downstream...for short durations]...”;
- EA p. 62 – “Cumulatively the limited magnitude and duration of turbidity due to road construction...would not be detectable on the scale of a seventh field watershed and would be unlikely to have any effect on any designated beneficial uses.”
- EA p. 64 - “...would locally increase turbidity...[<1/2 mile, short durations]...aquatic habitat would not be degraded in the long term.” And “No sediment from the temporary road crossing in 18A would reach listed fish habitat because the distance ...is greater than...turbidity and sediment would move downstream.”
- EA p. 65 – “The project would have no cumulative effects to instream fish habitat because there would be no direct impacts to channel morphology...in fish-bearing streams. The project would not contribute to cumulative effects to fish habitat, fish populations, or spawning and rearing success of fish populations because it would not cause direct effects to water quality or fish habitat...”
- DR p. 16 – “Project design features for the temporary stream crossing in section 18 will prevent sediment exceeding ODEQ water quality standards. Sediment will not reach listed fish habitat [because of the reasons described above]”
- DR p. 19 – “The selected action is expected to temporarily increase stream sediment and turbidity as a result of installing a temporary stream crossing in section 18.
These effects are not expected to be significant for the following reasons: [too small to be discernible relative to background...not exceed ODEQ standards...decrease quickly over time; unlikely to result in any detectable change for water quality on a sixth or seventh field watershed scale; cross reference with ESA fish information – see next paragraph]”
- DR pp. 20, 21 – “The selected action will not impact listed fish or their habitat because: [...No sediment from the temporary road crossing in section 18 is expected to reach listed fish habitat...New road construction is located in stable locations and will not contribute to degradation of aquatic habitat.]”

Bark closes this section of the protest with a series of five questions about contract administration. Bark infers that without adequate detail and answers to these questions, the BLM cannot support its conclusions that sediment will not exceed ODEQ water quality standards (Protest p. 7, lines 33-43).

BLM does not consider these questions to be points of protest. Bark is unclear if it intends to apply these questions only to the stream crossing which is the primary focus of this section of the protest, or if the questions reflect a larger area.

Regardless, while Bark characterizes the questions as “*site specific questions*” (Protest p. 7, lines 40, 41); BLM believes the questions about contract administration to be procedural, not site specific.

NEPA requires that an EA analyze effects in adequate detail to determine whether effects rise to the level of significance (40 CFR 1508.27), and to provide the decision maker with adequate information to make an informed decision. The BLM summarized the essential content of these questions along with related comments from Bark and other commenters in DR section 10.4, pp. 30-31. The response to these comments (DR pp. 31-32) includes specific answers to the questions, especially in paragraph 3 of p. 32. I determined that the EA provided enough detail to demonstrate that BLM will meet ODEQ water quality standards and thus that effects were not significant.

5. Cumulative Effects Analysis – Protest p. 8, line 1 to p. 9, line 6

a. *Bark disagrees with BLM’s analysis of cumulative effects.* (Protest p. 8, lines 13-14 to p. 9, line 6).

Response to #5a: 40 CFR 1508.7 states that “Cumulative impacts is the impact on the environment which results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions”. The BLM analyzed direct, indirect and cumulative effects of the selected action and other alternatives (EA section 3.0, pp. 8, 42, 51, 61, 67, 77, 83, 85). The EA followed this direction by:

- Describing the current landscape conditions, as a result of effects of *past actions* (e.g. fire, past timber management, access, EA p. 39-41)

The BLM describes the physical and historical settings, current use, existing watershed condition, scope of the proposal and cumulative actions on pages 39-42 of the EA.

Additional descriptions of the various resources are included in each of the resource sections in the EA and in each of the specialist reports prepared by professional resource specialists for the project. These documents were available for Bark to review at the Salem District Office and they did not request an opportunity to review any of them except the EA.

Watershed level descriptions are found in North Fork Clackamas River Watershed Analysis (1996) (http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fsbdev3_036610.pdf) and the Lower Clackamas River Watershed Analysis (1996) (http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fsbdev3_036562.pdf). These documents are available online from the US Forest Service. Some of Bark’s comments indicate that they have copies in their possession. Bark’s website links to the Lower Clackamas River Watershed Analysis (http://www.bark-out.org/tsdb/slip/Lower_Clack_Watershed.pdf).

Bark bases their opinion about the degree and significance of cumulative effects on their characterization of landscape conditions. For example Bark categorizes the watersheds as “*already degraded watershed*”, “*degraded surrounding lands*” or “*already denuded landscape*” (Protest p. 8, lines 12-13, 19, 34). Bark does not describe the location of these “*already degraded*” “*already denuded areas*”. Neither the EA nor the watershed analyzes describe the landscape as “*denuded*” or “*degraded*”. Bark also categorizes the stands as “*a rare section of naturally regenerated second growth forest...surrounded by clearcuts and plantations*” (Protest p.8, lines 17-18). The EA shows Bark’s characterization does not accurately reflect landscape conditions. For example, within the North Fork Clackamas and Middle Clackamas watersheds:

- The Forest Service and BLM manage 75% of the project area watersheds, retaining a forest setting on forest lands (EA p. 41)
- This area contains the North Fork Clackamas River, designated by the National Landscape Conservation System (NLCS) as a candidate for Wild and Scenic River status which restricts certain management activities within 1/4 mile of the river channel. Units 7A and 7B both include land in this corridor (EA p. 39).
- On BLM land within and surrounding unit 7A, there is no evidence of past logging or other forest management and the stand appears to have developed as a result of multiple forest fires in the 1800s and early 1900s that eliminated essentially all vestiges of the older forest and prepared seed beds for two major age classes of trees (60 and 90 years) with individual trees ranging in age up to 169 years (EA p. 39).
- On lands in and adjacent to 7B and 18A&B, the forests became established primarily in the mid 1940s after logging in the 1920s and fires in 1929 and 1939. Stands on BLM and Forest Service land are between 64-68 years old (EA pp. 39, 46).
- Publicly available maps showing ownership and Google Earth[®] imagery that Bark has used in its comment letters to BLM and has posted on their website www.bark-out.org shows that the BLM managed land containing the Airstrip Thinning Timber Sale is at the western apex of a triangle formed by the North Fork Clackamas River Watershed and the Lower Clackamas River Watershed. With the exception of private land in the North Fork watershed, everything upstream is federally managed.
- North and west (downstream) of the project area is dominated by private ownership in a mixture of private industrial forest lands, rural areas and city/residential areas. Almost everything northeast, east and south (upstream) of the project area (except section 8) is contiguous USFS land encompassing the entire upper portion of the Clackamas River and Roaring River watersheds (Roaring River is tributary to the Clackamas upstream of the project area) to the Cascades crest, and adjacent watersheds including the Molalla and Salmon Rivers.

The EA has determined that the effects of the Airstrip project stay within conditions described above by:

- Retaining a forest setting, 90% of large snags, and most 36 inch conifer trees within harvest units.
 - Retaining full shade on streams and retaining full leave riparian buffers (220-240) feet on all but 10 of the 400 acres of BLM within the Riparian Reserve Land use allocation within sections 7 and 18, with the exception of 100 feet associated with the temporary stream crossing proposed in section 18 (EA p. 59).
 - Limiting turbidity to within 800 meters (0.5) miles at the one stream crossing (EA p. 61).
 - Describing the effects that add to the effects of *present and reasonably foreseeable future actions* (EA pp. 8, 42, 51, 61, 67, 77, 83, 85). EA p 8 states here is a potential for cumulative effects on water quality and fisheries, and on carbon storage. The cumulative effects analysis for these resources described why and described the cumulative effects. See response to 5b.
- b. Bark asserts that “*Most cumulative effects sections in the EA conclude that there are no cumulative effects from the project because there are no direct effects.*” (Protest p. 8, lines 34-36). Bark questions why the DR “*determined that there is a potential for cumulative effects on water quality, and on carbon storage, [but] it does not explain why there was no similar analysis to assess cumulative impact from loss of snags and CWD, degradation of water quality, impacts to plant and animal species and soil health.*” (Protest p. 8 line 43 - p. 9, line 2). *Bark disagrees with BLM’s determination that there is no potential for cumulative effects to habitat* (Protest p. 8, lines 19-21, 38-39, 43- p. 9, line 1).

Each resource analyzed in the EA was assessed for cumulative effects (EA pp. 8, 42, 51, 61, 67, 77, 83, 85), as shown in the following examples.

Snags and CWD: The cumulative effects of the project on snags and CWD were assessed and documented in the EA pp. 77-78. The analysis determined that the effects of the selected action will not add to the effects of other past, present, and foreseeable future actions for the following reasons.

The selected will not measurably change the overall snags and CWD levels on the landscape because: all identified old-growth trees, and approximately 90 percent of large diameter trees, snags larger than 15 inches diameter and CWD will be retained within the project area; the project area comprises 37 percent of BLM managed lands in sections 7 and 18, so at least 96 percent of these features will be retained on BLM land in this contiguous block of BLM land; this block of BLM land comprises less than 1 percent of the combined 6th field watersheds (EA pp. 41-42); and snags and large diameter green trees felled and left on site as CWD will provide habitat for numerous dead-wood associated species (Aubry 2000; Bowman et.al. 2000; Butts and McComb 2000) for a period of a few years (smaller diameter and highly decayed pieces) to many decades (large diameter and sound wood). See response to #1.

Water Quality: BLM assessed the components of water quality (stream temperature, pH and dissolved oxygen, and sediment yield) for cumulative effects, documented in the EA, pp. 61-62, and determined that the proposal has little potential for contributing to any cumulative effects to stream temperatures, pH, or dissolved oxygen in these watersheds for the following reasons. This proposal is unlikely to have any measurable direct or indirect effect on these attributes because current conditions and trends in water quality, pH, and dissolved oxygen will be maintained under the selected action. Therefore the effects of the project on stream temperature and dissolved oxygen are not expected to add to other project's effects. The reasoning for this determination is described on EA pp. 24, 59 which shows:

- Design features such as stream protection zones in the primary shade zone and 50% canopy closure in the secondary shade zone for the 10 acres to be thinned maintain stream temperatures. Also the selected action will retain full leave 220 - 440 foot buffers on the rest of the streams in the proposed harvest units protecting stream temperatures (EA p. 24).
- EA p. 59 states that it is unlikely that the project would have any detectable effect on pH and dissolved oxygen because the project would not introduce large amounts of fine organic material into any stream, and would not alter re-aeration.

BLM analyzed potential cumulative effects to sediment and turbidity in the EA and determined that these effects may add to other project's effects. These effects are not expected to be significant for the following reasons:

- The EA (p. 62) states that the incremental increase in sediment yield and turbidity that could be attributable to the project would be of such small magnitude and duration that it is unlikely to be detectable at the seventh field (or larger) watershed scale.

Modeling of soil erosion and sediment yield due to forest management (using WEPP) in the North Fork Clackamas sixth field watershed estimates that the project could increase sediment yield by 0.1-0.3 percent over the typical sediment yield of 1.752 tons per acre generated by a typical forested watershed of this size (Patric et al, 1984). This level of increase would be undetectable with current technology because accurate estimates of sediment yield are difficult to measure and may vary by two or more orders of magnitude (Morris and Fan, 1998).

Sediment yields for forest harvest decrease rapidly over time (Dissmeyer, 2000) so sediment delivery during large storm events would likely return to current levels within three to five years after thinning. Cumulatively the limited magnitude and duration of turbidity due to road construction and maintenance, and hauling would not be detectable on the scale of a seventh field watershed and therefore will be unlikely to have any effect on any designated beneficial uses.

- The Final FONSI, intensity consideration 7, DR p. 19, concludes "The selected action is expected to temporarily increase stream sediment and turbidity as a result of installing a temporary stream crossing in section 18. These effects are not expected to be significant for the following reasons:

- “Any sediment increase...will be too small to be discernible relative to background sediment yields, is not expected to exceed ODEQ water quality standards and will decrease quickly over time...”
- “...is unlikely to result in any detectable change for water quality on a sixth or seventh field watershed scale.”
- The Final FONSI, intensity consideration 9, DR pp. 20-21 concludes that “The selected action will not impact listed fish or their habitat because:
 - “Undisturbed...buffers...will prevent impacts to water quality...;
 - “No sediment from the temporary road crossing in section 18 is expected to reach listed fish habitat...;
 - “Stream crossings on the haul route are on paved roads so no sediment would move to streams as a result of log hauling; and
 - “New road construction is located in stable locations and will not contribute to degradation of aquatic habitat.”

Forest Structure and “Plant Species” (Vegetation): The cumulative effects of the project on plant species and forest structure were assessed and the results were documented in the EA p. 51. The BLM assessment of the potential of cumulative effects to vegetation concluded that the effects of the project will not add to the effects of past, present and reasonably foreseeable future actions for the following reasons. The selected action:

- Will maintain a forested setting in the same age classes as before thinning;
- Will retain 90% of snags and CWD (EA pp. 31-32, 73-74, 77-78);
- Will not affect T/E or special status species (SSS) because no suitable habitat was found or populations will not decrease as a result of the project;
- Will not remove SSS habitat; and
- Will not contribute to the spread of invasive species populations or introduce new invasive species (EA p. 51).

“Animal Species” (Wildlife): The cumulative effects of the project on wildlife were assessed and documented in the EA pp. 78-79. The effects to wildlife will not add to the effects of past, present, and foreseeable future actions for the following reasons

- The selected action:
 - Will maintain dispersal habitat within and between known owl sites;
 - Will maintain suitable habitat within known owl sites;
 - Will maintain suitable habitat for Oregon slender salamander and other CWD associated species;
 - Will not eliminate connectivity between proposed units or adjacent untreated stands under BLM Management;

- Will not affect red tree vole in units 7B and 18A because these stands are not late successional habitat; will maintain undisturbed habitat for red tree vole in the same or similar age classes as the project area exists adjacent to the proposed thinning units and provides connectivity to other habitat in the vicinity; is not expected to affect red tree vole in unit 7A because survey results showed no tree voles within the unit;
 - Will not add cumulative effects to bats because there would be no effects to bridges, caves, cliffs, mines, buildings; ninety percent of larger >15 “snags would be retained; 73% of the contiguous BLM land would be left unthinned; and less than 1% of the 6th field watersheds would be thinned;
 - Will not reduce the persistence of any migratory bird species in the watershed or populations at the regional scale; will not eliminate any forest cover type, or change any habitat or patch size, and therefore will not contribute to fragmentation of bird habitat as a result of habitat changes from the proposed project;
 - Will not fundamentally change or eliminate any forest cover type or change any habitat patch size used by big game, therefore thermal and hiding cover present before treatment will be maintained after harvest. Forage will increase after harvest.
- The selected action will not add to the effects of other projects because thinning in the project area, either individually or collectively, would not be expected to contribute to the need to list any Bureau Sensitive species under the Endangered Species Act (BLM 6840) because habitat types in the project areas would be not be eliminated, habitat connectivity would not be changed, any habitat alteration would have only short-term negative effects, and long-term effects would be beneficial (EA p. 79).

Soils: BLM analysis of effects to soil related resources led the BLM to conclude that the effects were within the effects analyzed in the RMP/FEIS and that they would not have the potential to contribute to cumulative effects because:

- The BLM analysis of the extent and direct effects of soil compaction and erosion (EA p. 36, analysis assumptions; p. 37, methodology; p. 65, existing condition; p. 66, direct effects) determined that implementation of the selected logging systems with project design features (EA pp. 24-25, 29-30) would result in no more than eight percent of the harvest area being compacted by logging operations (EA p. 66) which is within the ten percent RMP guideline (RMP p. C-2, item B.3.).
- No measurable reduction in overall growth and yield, an indirect effect, would be expected from compaction in the thinning area. BLM experience with similar thinning over several decades shows that stand growth accelerates after thinning. (EA p. 67) Published research reviewed was inconclusive, showing everything from reduction in growth to increased growth adjacent to skid trails, so the BLM relied on experience in similar stands. Since there would be no reduction in growth and yield at a stand level, there is no potential for the project to contribute to an overall reduction, or cumulative effect, at a watershed level.

In conclusion, the BLM has followed 40 CFR 1508.7 with regard to the analysis of cumulative effects. Bark has not shown that the cumulative effects analysis is in error.

Decision

In my review of the points you raised in your protest, I have identified no substantive problems with the analysis. Further, commercial thinning on Matrix lands is consistent with the management objectives contained in both the Salem District RMP and NWFP. In regard to Airstrip Thinning timber sale, the BLM conducted a sound environmental analysis, adequately described the impacts of the proposed action in the EA, and designed the proposed action to meet the standards and guidelines of the Salem District RMP, the Northwest Forest Plan, and associated laws. No significant environmental impacts have been revealed in the EA or by your protest.

After careful consideration and for the reasons stated above, I deny your protest of the Airstrip Thinning timber sale. I will proceed with the implementation of the timber sale decision in accordance with 43 CFR 5003.3 (f).

You have the right to appeal to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of the Interior, Board of Land Appeals (Board), in accordance with the regulations contained in 43 CFR Part 4 and the enclosed Form 1842-1. If you wish to appeal my decision to deny your protest, follow the instructions in the following paragraphs.

If an appeal is taken, a notice of appeal must be filed in this office within thirty (30) days of receipt of this letter for transmittal to the Board. If your notice of appeal does not include a statement of reasons, such statement must be filed with the Board within thirty (30) days after the notice of appeal was filed.

A copy of your notice of appeal and any statement of reasons, written arguments, or briefs, must also be served upon the U.S. Department of the Interior, Office of the Regional Solicitor, 805 SW Broadway, Suite 600, Portland, OR 97205. In any appeal, you should consider the high bidder on the sale, Freres Lumber Co., Inc., and the Association of O&C Counties, as adverse parties to whom you must serve these documents. Their addresses are as follows: Freres Lumber Co., Inc., P.O. Box 276, Lyons, OR 97358; Association of O&C Counties, P.O. Box 2327, Harbor, Oregon 97415. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations.

According to 43 CFR Part 4, you have the right to petition the Office of Hearings and Appeals to stay the implementation of the decision; however, you must show standing and present reasons for requesting a stay of the decision. A petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Should you choose to file one, your stay request must accompany your notice of appeal. A notice of appeal with petition for stay must be served upon the Board, Regional Solicitor, Freres Lumber Co., Inc. and the Association of O&C Counties at the same time such documents are served on the deciding official at this office. The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3.

Sincerely,



Cindy Enstrom, Field Manager
Cascades Resource Area

Enclosure(s) (1): Form 1842-1

cc:

U.S. Department of the Interior
Office of the Regional Solicitor
805 SW Broadway, Suite 600
Portland, OR 97205

Freres Lumber Co., Inc.
P.O. Box 276
Lyons, OR 97358

Association of O&C Counties
P.O. Box 2327
Harbor, OR 97415

Anita Bilbao, OSO (931)
BLM - Oregon State Office
P.O. Box 2965
Portland, OR 97208

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
- AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL.....

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL.....

Cindy Enstrom, Cascades Resource Area Field Manager, Bureau of Land Management, 1717 Fabry Road SE, Salem, OR 97306

WITH COPY TO SOLICITOR...

U.S. Department of the Interior, Office of the Regional Solicitor, 805 SW Broadway, Suite 600, Portland, OR 97205

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR.....

U.S. Department of the Interior, Office of the Regional Solicitor, 805 SW Broadway, Suite 600, Portland, OR 97205

4. ADVERSE PARTIES.....

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE.....

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY.....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.