



United States  
Department of  
Agriculture

Forest  
Service

2004



# Final Supplemental Environmental Assessment

## Clark

**Middle Fork Ranger District, Willamette National Forest  
Lane County, Oregon**

The project is located in T.18 S., R.2 E.; Willamette Meridian.

For Information Contact: **Rick Scott**  
60 South Pioneer St.  
Lowell, OR 97452  
541.937.2129

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## **Introduction**

The Forest Service has prepared 5 Supplemental Environmental Assessments (SEAs) pursuant to an opinion and order signed November 21, 2003, in a lawsuit in the U.S. District Court for the District of Oregon, *Oregon Natural Resources Council Action, Oregon Natural Resources Council Fund, and American Lands Alliance v. U.S. Forest Service*, Civil No. 03-613-KI. These 5 supplemental EAs are for the Borg and Solo Timber Sales on the Mt. Hood National Forest, and the Clark, Pryor, and Straw Devil Timber Sales on the Willamette National Forest.

Pursuant to the Court's opinion and order, the Forest Service submitted these draft supplemental EAs for public comment from February 17, 2004, to March 18, 2004. After reviewing comments submitted, the Forest Service prepared final supplemental EAs by April 16, 2004. Plaintiffs in this lawsuit must submit any objections to the final supplemental EAs with the court by May 17, 2004. If any such objections are filed, the court will establish a briefing schedule and hold a hearing on the objections.

This supplement discusses management of red tree voles, a Survey and Manage species, for the Clark Timber Sale. The sale was sold and awarded in 1998. All the road work has been completed. No harvest has occurred in any of the proposed units. The Clark Timber Sale is located in the North Fork of Fall Creek drainage within the Fall Creek 5<sup>th</sup> field watershed on the Willamette National Forest, approximately 25 miles east of Eugene, Oregon.

## **Changes Made Between Draft and Final Supplemental EAs**

Discussion was added in the next section concerning the Record of Decision for the Final Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines. A separate document was developed containing comments on the draft Supplemental EA and agency responses to the comments.

## **Time line**

The Clark Project Environmental Assessment (EA) (USDA 1997) was published for a 30-day comment period on August 18, 1997. The Decision Notice and Finding of No Significant Impact (DN/FONSI) (USDA 1997) for the Clark EA was signed on October 3, 1997. The decision selected a modified Alternative 4.

The Forest Service auctioned the Clark Timber Sale on March 11, 1998 and awarded the contract on March 16, 1998. The purchaser completed all the required road work (construction and reconstruction) in July 1998. Again, no harvest has occurred in any of the proposed units.

In 1998 litigation was initiated in the U.S. District Court for the Western District of Washington in Seattle that challenged in part the Agencies' interpretation of the Northwest Forest Plan's (NWFP) requirement to phase-in certain pre-disturbance survey requirements (ONRC Action et al v. USFS et al., CV 98-942 (WD Wash.)).

On August 2, 1999, the Seattle court ruled the Agencies application of the Survey and Manage requirements was deficient in two ways. The Court found that the Agencies' memo defining "project implementation" as the date of the NEPA decision or decision document, and the Agencies' decision to exempt some habitat conditions from red tree vole surveys, were not consistent with requirements in the NWFP.

On December 17, 1999, the Seattle court approved a stipulation dismissing the lawsuit. The stipulation provided procedures for conducting pre-disturbance surveys specifically for red tree voles on certain timber sales and documenting the results in Supplemental Information Reports (SIR). The Clark Timber Sale was subject to the terms of this stipulation and red tree vole surveys were initiated in 2000. The stipulation provided that it would expire once the agencies adopted a set of amendments for Survey and Manage species through a Supplemental EIS.

The Record of Decision for the Final Supplemental Environmental Impact Statement for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (S&M ROD) was signed on January 12, 2001. That document amended the Northwest Forest Plan (USDA USDI 1994a&b) and changed categories for some species and removed some from Survey and Manage. It also clarified the agencies intent as to the timing of surveys for the red tree vole.

Management recommendations were determined for the Clark Timber Sale per the direction in the 2001 S&M ROD based on the results of the Forest Service surveys. Two citizens groups, Cascadia Forest Defenders and Canopy Action Network, submitted additional red tree vole information concerning red tree vole nests in the Clark Timber Sale units. The Forest Service verified the information with additional surveys and additional protection areas were determined for the Clark Timber Sale units. All the management recommendations were documented in a SIR dated May 14, 2001. A copy of the SIR was sent to the plaintiff in May 2001.

Additional red tree vole information (nest sites) continued to be submitted by the citizens' groups mentioned above. The Forest Service also verified this information with additional surveys, additional protection areas were identified. The changes were documented in an amendment to the SIR dated January 14, 2002. A copy of the amended SIR was sent to the plaintiff and citizens groups in January 2002.

The management recommendations were never marked on the ground and the Clark Timber Sale contract was never modified to reflect these management recommendations.

In 2003 litigation was initiated in the U.S. District Court for the District of Oregon challenging this and other timber sales alleging in part that the SIRs that were completed for

these sales violated NEPA (*Oregon Natural Resources Council Action, Oregon Natural Resources Council Fund, and American Lands Alliance v. U.S. Forest Service*, Civil No. 03-613-HU). On October 9, 2003, the court ruled the Forest Service violated NEPA by authorizing the sales without preparing NEPA analyses regarding the agencies survey and manage duties under the Northwest Forest Plan.

On November 21, 2003, the Portland court signed an Opinion and Order that directed the Forest Service to prepare additional NEPA analyses before proceeding with logging of any of these sales. The purpose of this analysis is to disclose and analyze the agency's survey and manage duties for these sales. The Court stated the analysis should discuss the methodologies used for the surveys, the results of the surveys, a range of alternatives and the management decisions being made.

In January 2004, the Forest Service and BLM published a Final Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines. This fSEA is tiered to the supplemental EIS that supports the March 2004 ROD and the other NEPA documents to which it is a supplement. The Record of Decision (USDA USDI 2004) following that Supplemental EIS was signed on March 22, 2004, but is not in effect until April 21, 2004. In this March 2004 ROD the agencies eliminated the Survey and Manage Standards and Guidelines. Because this Supplemental EA was prepared following current direction, pursuant to the Court's order, the March 2004 ROD does not apply to this Supplemental EA.

The March 2004 ROD, page 9, provides that known sites of survey and manage species that are not included in any of the special species programs "will be released for other management uses after the effective date of this Record of Decision." For the Clark Timber Sale, the red tree vole was the only survey and manage species known. Red tree vole will not be moved to the Forest Service's Sensitive Species list. Thus, for Clark Timber Sale, the acres that are protected under current direction "will be released" on April 21, 2004, for other management uses.

## **Survey and manage duties based on current direction**

The survey and manage direction that was current when this analysis was prepared is found in the Record of Decision for the Final Supplemental Environmental Impact Statement for Amendment to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (S&M ROD) (USDA USDI 2001).

The S&M ROD also provides direction for management activities with Decision Notices signed prior to January 2001, the date the S&M ROD was signed. The following paragraphs come directly from page 18 of the S&M ROD.

*For management activities with signed NEPA decisions or decision documents before the effective date of this Decision:*

a. For activities under an awarded contract or signed permit, or if actual habitat- disturbance has already commenced using agency crews, then:

No Survey and Management requirements in this Decision are applicable to these actions, unless the activity is an awarded timber sale identified under the Stipulation to Dismiss in ONRC Action as needing red tree vole surveys. For those sales, red tree vole surveys should be completed. The Agencies will conduct these surveys according to the protocol in effect at the time when the surveys are initiated, and will manage resultant sites in accordance with the Management Recommendations (MRs) in effect at the time of the surveys are conducted, modifying the awarded timber sale and contract as necessary.

The most recent direction for Survey and Manage species comes from the 2003 S&M ASR and the memorandum signed December 19, 2003. This memorandum provides direction for future agency NEPA decisions or decision documents for habitat disturbing activities that should be incorporated by referencing the results of the 2003 S&M ASR to document the changes affected by this memorandum. Refer to the 2001 S&M ROD pages 8-9, 2001 ROD S&Gs pages 18-19; Forest Service November 20, 2001 memorandum, file code 1900/2620; and BLM Information Bulletin No. OR-2002-033 for further details. The following paragraph comes directly from the memorandum:

**Application to Management Activities with Signed NEPA Decision or Decision Documents Before the Effective Date of This Decision**

*For activities under awarded contract or signed permit, or if actual habitat disturbance has already commenced using agency crew:*

No changes from the FY2003 Annual Species Review are applied to these projects

The above direction applies to the Clark Timber Sale because the Decision Notice was signed in 1997 and the contract was awarded in 1998. The Clark Timber Sale was identified in the Stipulation to Dismiss as requiring only red tree vole surveys and for managing resultant sites in accordance with the MRs in effect at the time surveys were conducted. No other S&M species surveys were required for this project.

## **Methodology of surveys**

The following Survey protocols were used:

- Modified line transect survey method and associated tree climbing were completed in all units according to the Survey Protocol for the Red Tree Vole, Version 2.0 February 18, 2000. One hundred meter searches were completed around verified RTV nest trees and selective tree climbing was implemented according to protocol (p. 13) in units 28, 36, 37, 42, 43 and 53.

The following Management Recommendations were used:

- Management Recommendations for the Oregon Red Tree Vole *Arborimus longicaudus*, Version 2.0, September 27, 2000.

Specifically, protect all active nest sites discovered with a minimum 10 acre habitat area. This habitat area is intended to provide for protection of the physical integrity of the nest(s) and retain adequate habitat for expansion in the number of active nests at that site. A site is defined as an individual nest tree or a collection of nest trees within a local area. The local area is defined as all nest trees in a stand and adjacent stands that are not isolated from other clumps of nest trees by more than 100 meters. Protection would also include those inactive nest sites that are within 100 meters of active nest site locations.

The habitat areas are located so that all nest trees in the site are about 200 feet from the boundary edge of the habitat areas unless lack of adjacent suitable habitat made this infeasible. The approximate 200 feet buffer distance is slightly greater than one site potential tree height distance established for this area to protect the integrity of all known active nest trees from windthrow or mechanical damage from adjacent logging activities.

## Results of surveys/Management of known sites

The Forest Service completed the required surveys for the red tree vole on all 10 units in the Clark Timber Sale as directed by the S&M ROD. The protocol surveys were initiated in March and completed in June of 2000. This included modified transect surveys in all 10 units as well as the selective tree climbing implemented in units 28, 36, 37, 42, 43 and 53. From June of 2000 through November of 2001, nest samples taken from various units of the Clark Timber Sale were submitted to the FS by two local citizen groups, the Canopy Action Network and Cascadia Forest Defenders. The FS reviewed and validated this information through the use of contract tree climbers.

Summary: A total of thirty-five active red tree vole nest trees and twenty-four inactive nest trees were confirmed from the ground transect surveys and subsequent tree climbing results from both the FS protocol work and from samples submitted from the two citizen groups. The specific unit-by-unit results are displayed in the table below.

**Table 1 – Survey Results for the Clark Timber Sale**

Clark Timber Sale Unit Number	Active Nest Trees	Inactive Nest Trees
26	2	3
28	5	3
34	3	5
35	2	2

36	2	8
37	3	3
38	5	0
42	3	0
43	5	1
53	5	0
<b>Totals</b>	<b>35</b>	<b>25</b>

## Alternatives

This supplemental EA will evaluate alternative ways of applying Management Recommendations for the red tree voles found in the Clark Timber Sale Area.

Alternative A- This alternative protects RTV nests discovered from the Forest Service protocol surveys conducted on this sale and by incorporating additional nest tree information provided by the citizen groups. All confirmed active nest sites and all but 4 inactive nest sites are protected in habitat areas in this alternative. The emphasis in this alternative is to locate habitat areas that would least impact the Clark Timber Sale contract acres while following direction in the Management Recommendations.

Alternative B- This alternative is similar to Alternative A in that it incorporates all confirmed active nest sites and all but 2 inactive nest sites in habitat areas. The emphasis in this alternative is to maximize protection of the confirmed nest trees where feasible by buffering sites with distances greater than 200' from the core RTV nest zone and/or delineating habitat areas by utilizing more contiguous habitat.

Table 2 displays the unit-by-unit descriptions by alternative of how the management recommendations affect each sale units.

Map 1 displays the original Clark Timber Sale contract unit boundaries. Map 2 displays the proposed unit changes and habitat areas as a result of Alternative A, and Map 3 displays the proposed unit and habitat area results of Alternative B.

The differences between Alternative A and Alternative B are relatively small because of the limited availability of RTV habitat to designate for protection within the Clark Timber Sale units and the areas adjacent to the units. Alternative A would not protect two inactive nest trees in Unit #26 which are greater than 100 meters away from any active nest tree (see Management Recommendation on page 4). Alternative B shifts the habitat area in Unit #26 to make it a more contiguous block of habitat and protects these two inactive nest trees. Alternative B changes the configuration of the habitat area to the southwest of Unit #34 to

make it a more contiguous block of habitat. Alternative B also changes the habitat area boundary in Unit #28 to better buffer an active nest trees and provide more contiguous habitat by expanding the habitat area into the riparian reserve on the west side of the unit.

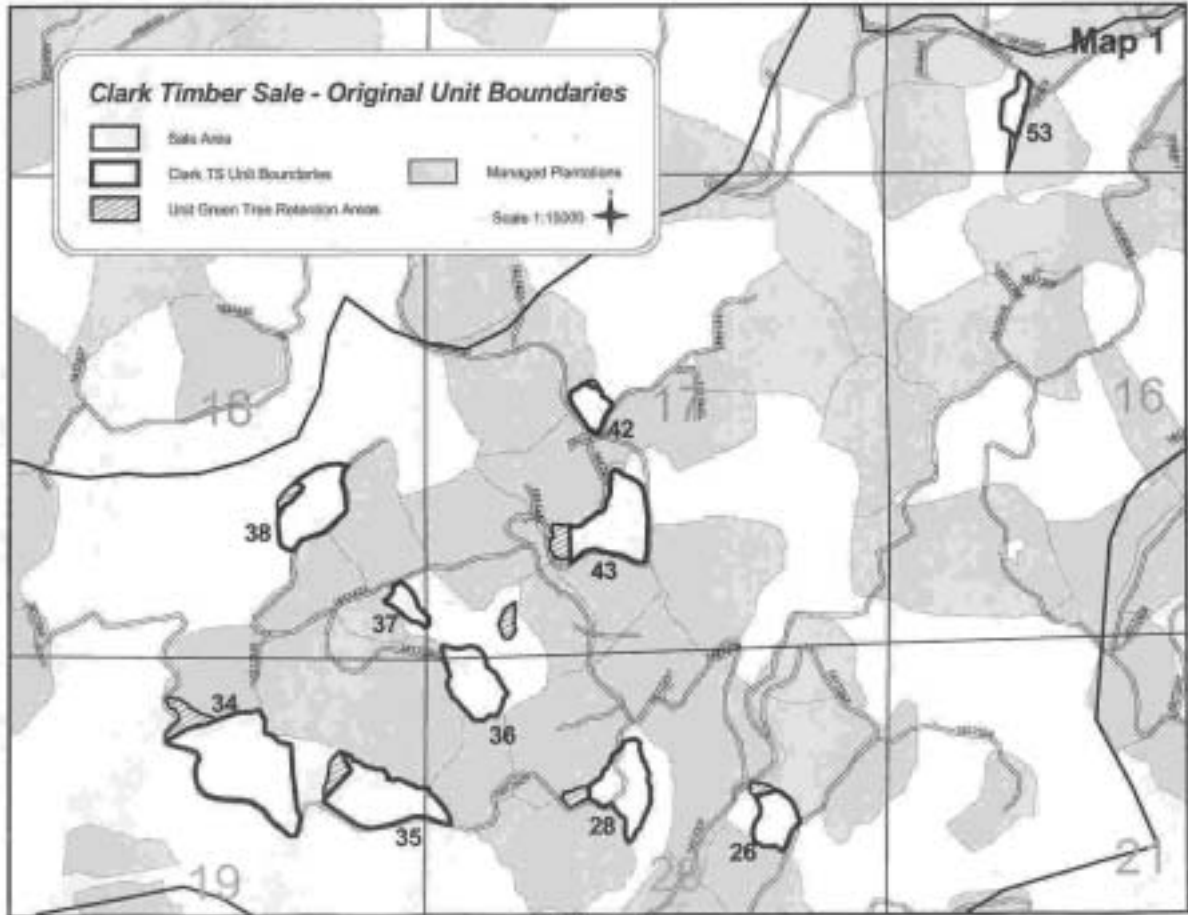
Alternative A would create 10 habitat areas protecting 35 active nest trees and 21 inactive nest trees. Four inactive nest trees would not be protected. The original Clark Timber Sale contract acres would be reduced from 94 acres to about 29 acres, a reduction of 65 acres.

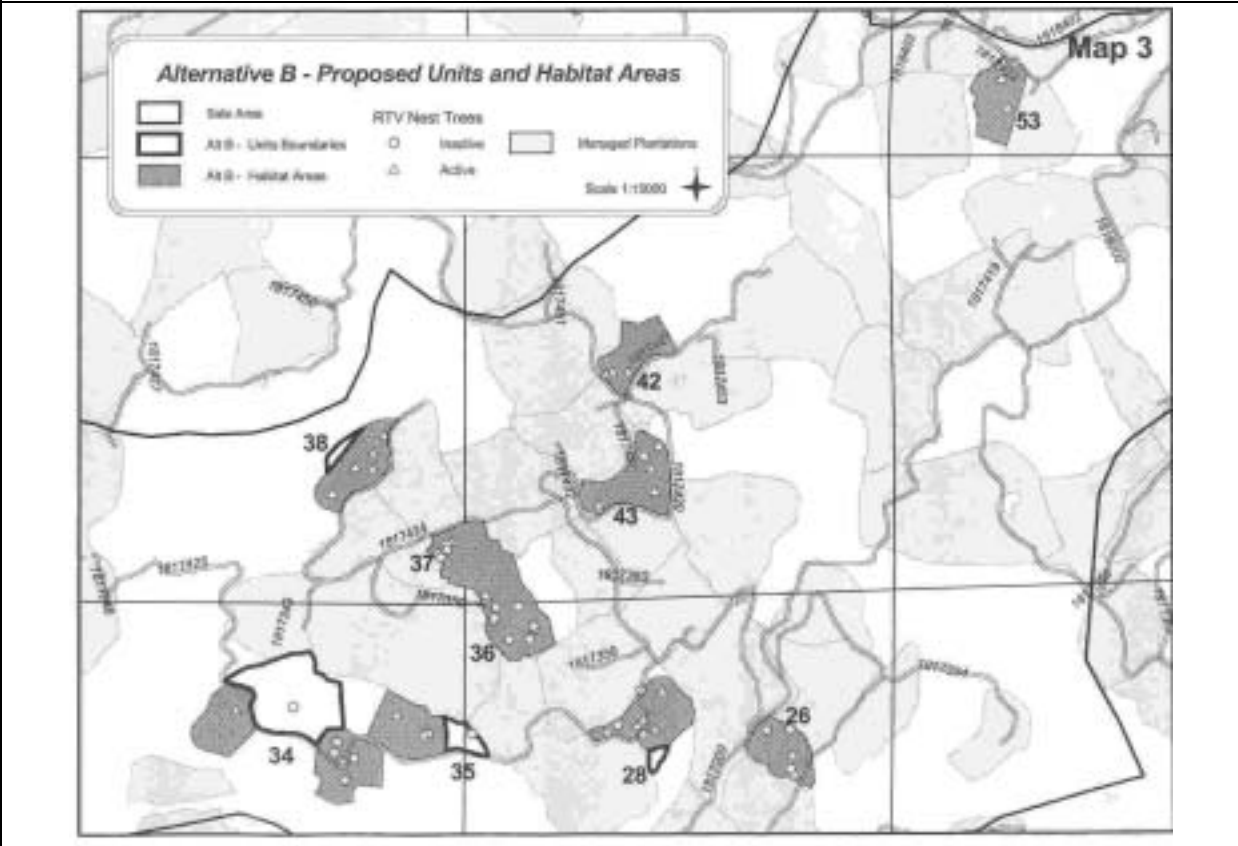
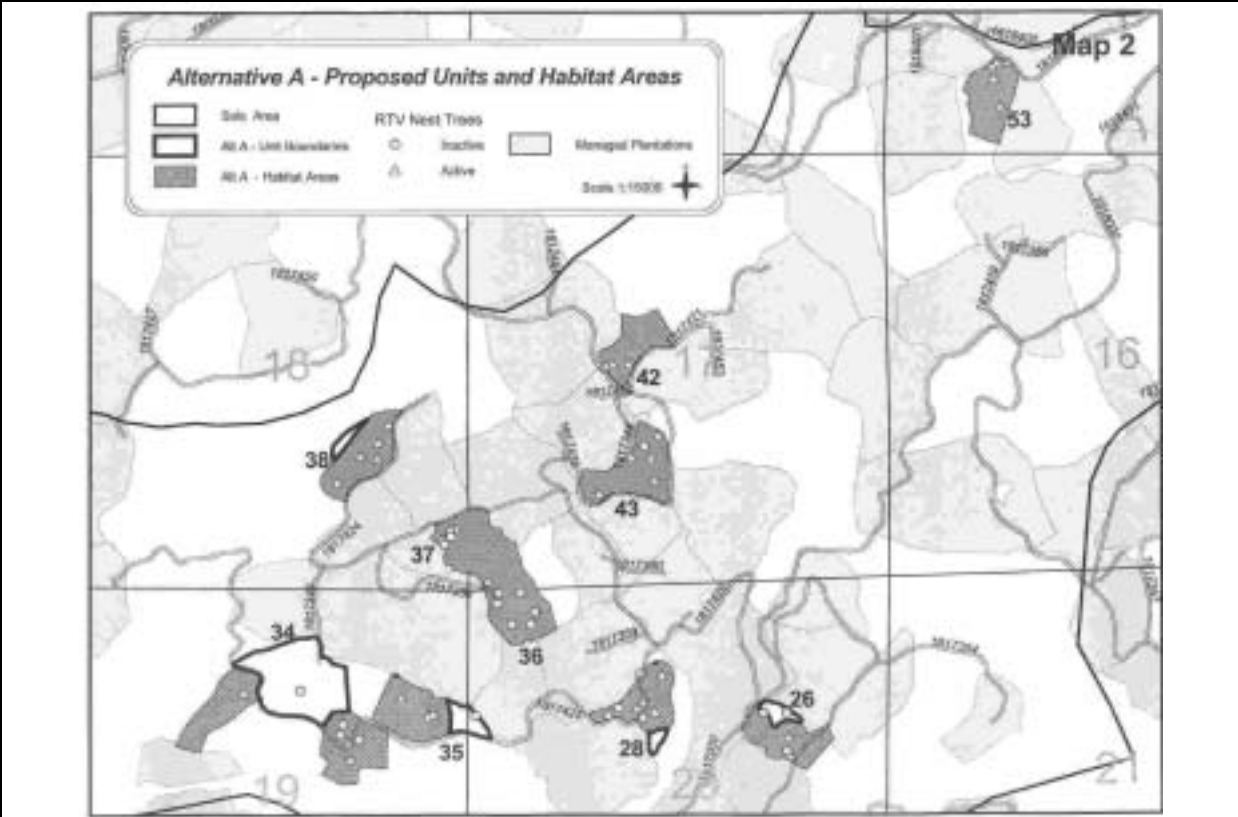
Alternative B would create 10 habitat areas protecting 35 active nest trees and 23 inactive nest trees. Two inactive nest trees would not be protected. The original Clark Timber Sale contract acres would be reduced from 94 acres to about 27 acres, a reduction of 67 acres.

Unit Number	Original Clark Timber Sale Contract Acres	Alternative A (Minimize impacts to timber sale acres)		Alternative B (Maximize nest tree protection)	
		Remaining Unit Acres	Remarks	Remaining Unit Acres	Remarks
26	6	2	One habitat area (HA) was established to protect two active and one inactive nest trees. Two inactive nests were unprotected. Four unit acres included in the HA. Two unit acres remain outside the HA	0	HA delineation shifted for more contiguous habitat protection. One habitat area (HA) was established to protect two active and three inactive nest trees. All unit acres included in HA.
28	10	1	One HA was established to protect three active and five inactive nest trees. One unit acre remains outside the HA.	1	HA delineation was enlarged into the riparian reserve for more contiguous habitat protection. HA protects three active and five inactive nest trees. One unit acre remains outside the HA.
34	23	22	Two HAs were established to protect the three active and four inactive nest trees. One inactive nest was not protected. HA to southwest delineated to facilitate logging feasibility of adjacent stands. Twenty-two unit acres remaining outside of the HA.	22	Two HAs were established to protect the three active and four inactive nest trees. One inactive nest was not protected. HA to southwest delineated to protect more contiguous habitat. Twenty-two unit acres remaining outside of the HA.
35	15	3	One HA was established to protect two active and one	3	One HA was established to



			inactive nest trees. One inactive nest was not protected Three unit acres remaining outside of the HA.		protect two active and one inactive nest trees. One inactive nest was not protected Three unit acres remaining outside of the HA.
36	9	0	One HA established to protect 2 active and 8 inactive nest trees in unit 36. The HA also includes nest trees in unit 37. No unit acres remain outside of the HA.	0	One HA established to protect 2 active and 8 inactive nest trees in unit 36. The HA also includes nest trees in unit 37. No unit acres remain outside of the HA.
37	3	0	One HA was established to protect the 3 active and 3 inactive nest trees. This HA also protects nest trees in unit 36. All acres of unit 37 included in the HA. No unit acres remain outside of the HA.	0	One HA was established to protect the 3 active and 3 inactive nest trees. This HA also protects nest trees in unit 36. All acres of unit 37 included in the HA. No unit acres remain outside of the HA.
38	9	1	One HA was established to protect five active nest trees. The HA includes eight unit acres. One unit acre remains outside the HA.	1	One HA was established to protect five active nest trees. The HA includes eight unit acres. One unit acre remains outside the HA.
42	3	0	One HA was established to protect the 3 active nest trees. All 3 unit acres were included within the HA.	0	One HA was established to protect the 3 active nest trees. All 3 unit acres were included within the HA.
43	13	0	One HA was established to protect five active and one inactive nest trees. No unit acres remain outside the HA.	0	One HA was established to protect five active and one inactive nest trees. No unit acres remain outside the HA.
53	3	0	One HA was established to protect five active nest trees. No unit acre remains outside the HA.	0	One HA was established to protect five active nest trees. No unit acre remains outside the HA.
<b>Totals</b>	<b>94</b>	<b>29</b>		<b>27</b>	





## Environmental Consequences

The original decision on the Clark Project EA selected Modified Alternative 4. Alternative 4 is described in the EA on page 11 and the modifications to the selected alternative are described in the Decision Notice and Finding of No Significant Impact (USDA 1998) on page 1. The Modified Alternative 4 consists of approximately 274 acres of regeneration harvest with green tree retention and about 230 acres of commercial thinning of managed plantations. All of the harvest was planned to be skyline yarded with one end log suspension. The timber sales generated from this alternative would yield as estimated volume of 15 million board feet of timber. Harvest units would require the construction of about 1.3 miles of specified system roads and about 0.5 miles of temporary logger spur roads. The Clark Timber Sale is one of three sales designed under this project. The two other sales are the Lois Timber Sale and Fall Thin Timber Sale.

The following table contains a summary of the Environmental Consequences that are relevant to the changes made to the Clark Timber Sale for the red tree vole.

**Table 3 – Summary of Environmental Consequences**

<b>EA Resource Topics</b>	<b>Alternative A – (Minimize impacts to timber sale acres)</b>	<b>Alternative B – (Maximize nest tree protection)</b>
Red Tree Vole ( <i>Arborimus longicaudus</i> )	RTV protected according to MRs to maintain persistence.	RTV protected according to MRs to maintain persistence.
Landscape Corridors	Less impact – 65 acres less habitat disturbed.	Less impact – 67 acres less habitat disturbed.
Scenic Quality	No change	No change
Water Quality	Less impact - 65 acres less logging. Less sediment.	Less impact – 67 acres less logging. Less sediment.
Soils	Less impact - 65 acres less skyline logging. 0.3 miles less spur road. 4 acres changed to helicopter logging. Less soil compaction.	Less impact – 67 acres less skyline logging. 0.3 miles less spur road. 2 acres changed to helicopter logging. Less soil compaction.
Fisheries	No change	No change
Northern Spotted Owls	Less impact - 65 acres less owl habitat removed.	Less impact – 67 acres less owl habitat removed.
Biodiversity	Less impact – 65 acres less late successional habitat	Less impact – 67 acres less late successional habitat disturbed.

<b>EA Resource Topics</b>	<b>Alternative A – (Minimize impacts to timber sale acres)</b>	<b>Alternative B – (Maximize nest tree protection)</b>
	disturbed.	
Timber	65 acres less timber volume supply.	67 acres less timber volume supply.
Recreation	No change	No change
Elk	Less forage and more thermal & optimal cover	Less forage and more thermal & optimal cover
Threatened, Endangered and Sensitive Species	Less impact.- 65 acres less habitat disturbed	Less impact.- 67 acres less habitat disturbed
Economics	Less revenue returned. Additional logging & administrative costs.	Less revenue returned. Additional logging & administrative costs.

## **Explanation of decisions being made**

Alternative A is the recommended management action. It would delete five units (36, 37, 42, 43, and 53) and reduce the acreage on another five units (26, 28, 34, 35, and 38) from the Clark EA. Some additional administrative costs would be required to make the changes to the Clark Timber Sale Contract. This is the recommended action because it applies Management Recommendations for red tree voles, it is consistent with the direction in the 2001 ROD (which is the current direction), and it minimizes impacts to the timber sale contract acreage.

Alternative B is not the recommended management action because it would delete an additional unit (26), it would require additional administrative costs, and it would exceed the Management Recommendations by protecting two additional inactive nest trees in Unit 26.

The March 2004 ROD, described above, becomes effective on April 21, 2004. Under the direction that becomes current direction at that time, these acres “will be released for other management uses” without any further administrative action. Under current direction these acres will be taken out of the Clark Timber Sale contract; under the direction that becomes current direction after April 21, 2004, they will not.

## **Finding of no significant change in actions, circumstances, or information**

No new environmental assessment or environmental impact statement will be prepared.

No significant new information was learned as a result of the red tree vole surveys conducted for the Clark Timber Sale. Surveys for the red tree vole were conducted in 2000 and subsequent additional red tree vole evidence from the two citizens groups was verified by the Forest Service in 2000-2001, as described above resulting in 35 active and 24 inactive nest trees confirmed from the ground transect surveys and subsequent tree climbing. Following the S&M Management Recommendations for red tree voles, the Forest reduced the Clark Timber Sale from 94 acres to about 29 acres, a reduction of 65 acres. This is not significant new information because it is no different from what was established in the Northwest Forest Plan, as modified by the 2001 S&M ROD — both of which were adopted pursuant to an Environmental Impact Statement.

The changes to the Clark Timber Sale in order to manage known sites of red tree vole are not significant because they result in no adverse environmental effects. Dropping Units 36, 37, 42, 43, and 53 and reducing the size of Units 26, 28, 34, 35, and 38 diminished the size of the Clark Timber Sale but dropping these acres result in less impact to the environment. Therefore the original Finding of No Significant Impact (FONSI) is not undermined or changed as a result of the surveys conducted for the Clark timber Sale because the changes resulted in a reduction of environmental impacts.

Because there is no significant change to the actions, circumstances, or information that was presented in the Clark EA, as a result of the red tree vole surveys that were done for Clark Timber Sale, no new Environmental Assessment or Environmental Impact Statement is required.

There is an additional reason why the Forest need not prepare an Environmental Impact Statement of a new Environmental Assessment for the Clark Timber Sale. The changes to be made to Clark Timber Sale contract as a consequence of discovery of the red tree vole are operational in nature, i.e. they are part of the normal administrative actions taken in implementing a decision. Actions taken to implement a decision made pursuant to NEPA are not subject to NEPA, as long as those actions are within the scope of the original decision. These actions are within the scope of the original decision to proceed with the Clark project , and are consistent with the management direction that was in place at the time.

## **No new decision**

The Forest is not making a new decision about the Clark EA project at this time. The information learned by the Forest in the red tree vole surveys, as recorded in this supplemental EA, provides no compelling reason to make a new decision about Clark Timber Sale. The information the Forest learned will be acted upon in the operational changes to be made to the Clark Timber Sale, which will reduce the sale size by 65 acres under current direction.

Because no new decision is being made at this time, no new Decision Notice will be prepared.

## References

USDA Forest Service and USDI Bureau of Land Management. 1994a. Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (Northwest Forest Plan). Portland, Oregon.

USDA Forest Service and USDI Bureau of Land Management. 1994b. Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl; Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest related Species within the Range of the Northern Spotted Owl (Northwest Forest Plan). Portland, Oregon.

USDA Forest Service and USDI Bureau of Land Management. 2001. Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines. (Survey and Manage Plan)

USDA Forest Service and USDI Bureau of Land Management. 2003. Memorandum on implementation of 2003 Survey and Manage Annual Species Review, Dated December 19, 2003.

USDA Forest Service 1997. Clark Project Environmental Assessment. Lowell, Oregon.

USDA Forest Service 1997. Decision Notice and Finding of No Significant Impact for the Clark Project Environmental Assessment. Lowell, Oregon.

USDA Forest Service and USDI Bureau of Land Management 2004. The Record of Decision to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines March 2004.

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