

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

**Bare Cupboard  
Commercial Thinning & Density Management  
Decision Document**

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

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Commercial Thinning & Density Management  
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## **SECTION 1 – THE DECISION**

### **Introduction**

Bare Cupboard is a commercial thinning and forest density management project identified in the Upper Umpqua Watershed Plan (EA # OR -104-02-09) and its subsequent Decision Record (October 8, 2003). This decision is consistent with the Roseburg District Resource Management Plan (RMP) adopted in June 1995 and the Upper Umpqua Watershed Plan. The implementation of this decision would meet the following objectives from the Upper Umpqua Watershed Plan (pg. 2):

- For mid seral forests on BLM lands designated for wildlife and fish needs (e.g. Riparian Reserves), accelerate stand diversity and development of late-successional characteristics such as large crown ratios, larger lateral branches, multiple canopy layers, and a greater number of larger conifers while maintaining a healthy ecosystem.
- For mid seral forests on BLM lands designated for commercial harvest needs (e.g. General Forest Management Areas), maintain healthy growth rates and contribute timber for the local and regional economy while protecting certain forest components for wildlife.
- Accelerate and enhance the development of aquatic habitat characteristics such as instream structure, increased pools and gravels, and reduced bedrock dominated streams. Increase the access to spawning and rearing habitat for anadromous fish.

In addition, snags and coarse woody debris would be managed in the Bare Cupboard Commercial Thinning and Density Management project to provide levels identified in the *Upper Umpqua Watershed Plan Decision Document* (pgs. 6-7; Oct. 8, 2003).

### **Decision**

It is my decision to authorize implementation of the Bare Cupboard Commercial Thinning and Density Management timber sale in Section 19, T. 26 S., R. 07 W., W.M. following the project design features (PDFs) established in the Upper Umpqua Watershed Plan as adjusted in the Decision Record. This timber sale is located within the General Forest Management Area (GFMA) land-use allocation. The stand that will be treated is second-growth forest 51 years old. Bare Cupboard will provide approximately 3.418 MMBF of merchantable timber available for auction. Approximately 2.233 MMBF is within the GFMA portion of the sale and 1.185 MMBF is within Riparian Reserves. This decision is subject to administrative remedy under 43 CFR § 5003.2 and 5003.3. The description of the action authorized by this decision is described below.

### **Timber Harvest**

One unit (19A) consisting of approximately 220 acres of mid-seral forest, aged 51 years, will be commercially thinned and have density management treatments applied (refer to Figure 1). The quadratic mean diameter of trees in this stand is approximately 11 inches diameter-breast-height (DBH). Approximately 138 acres located in GFMA will be commercially thinned and 71 acres in the Riparian Reserve will have density management applied.

An additional 11 acres will be cleared or brushed for road and spur right-of-ways to access the harvest areas. Five acres is within GFMA and six acres is within Riparian Reserve. Within the Riparian Reserve, the six acres of clearing only includes brushing along existing roads (i.e. clearing within approximately five feet of either side of the running surface).

### **Treatment Prescription**

Commercial thinning and density management would be used to reduce the number of trees in stands dominated by Douglas-fir that are generally even-aged. Trees would primarily be removed from the suppressed and intermediate canopy classes, although some co-dominant and dominant trees could be removed where necessary to meet specific density objectives. The prescription for tree marking was designed to create variable spacing of the remaining trees and protection of existing snags to the extent possible. Examples include occasionally leaving clumps of trees and clearing around large limbed trees, and varying the spacing to select a tree of particular species and/or growth form.

The harvest unit is marked to retain approximately 100-120 square feet of basal area (high residual density) in the upland treatment area (138 acres) and 50-80 square feet of basal area (low residual density) in the Riparian Reserves (71 acres). This prescription is designed to maintain full site occupancy of commercial species in the uplands, and provide trees that will contribute to snags and coarse woody debris in the Riparian Reserves. Minor conifer species and hardwoods greater than 8 inches DBH will be retained in uplands. Generally, trees selected for retention have at least a 30 percent live crown ratio so that live crown expansion and accelerated diameter growth will be more likely following thinning (Daniel, et. al. 1979).

Variable no-harvest buffers have been placed around non-fish bearing streams. There are no fish-bearing streams immediately adjacent to the harvest unit. No-harvest means that some trees may be felled in these areas to create or enhance habitat but trees will not be commercially removed.

Based on cruise data (2006), there are approximately 177 snags 8-20 inches DBH and six snags greater than 20 inches DBH in the Riparian Reserve of Unit 19A. There are also approximately 268 snags 8-20 inches DBH and seven snags greater than 20 inches DBH in the GFMA portion of Unit 19A.

Recruitment of additional green trees as snags and coarse woody debris to meet criteria established in the project design features (pgs. 6-7) will be done within two years of the completion of harvest activities. This additional time before recruiting green trees as snags and coarse woody debris will allow BLM to preferentially select trees that were damaged during harvest operations. As stated in the project design features, approximately 142 trees will be recruited as coarse woody debris within the Riparian Reserve and 207 trees will be recruited as snags in the Riparian Reserve.

### **Timber Cruising**

This project will yield approximately 3.418 MMBF of timber towards the Roseburg District's annual harvest commitment of 45 MMBF.

A small amount of additional timber could potentially be included as a modification to this project. These additions will be limited to the removal of individual trees or small groups of trees that are blown down, injured from logging, are a safety hazard, or trees needed to facilitate the proposed action. Historically, this addition has been less than ten percent of the estimated sale quantity.

### **Firewood**

Firewood cutting and salvaging of logging debris (slash) will occur in cull decks, logging landings, and near roads after the commercial thinning and density management activities have been completed.

### **Timber Yarding**

The action will require a mix of skyline cable yarding (63 acres) and ground-based yarding (146 acres). Up to 10 acres of additional, incidental ground-based logging may be necessary (i.e. removal of guyline anchor trees, isolated portions of units, etc.) and will occur on gentle slopes (less than 35 percent), during the dry season.

### **Timber Hauling**

Approximately 0.29 miles of rocked road and 2.63 miles of unsurfaced road will be used for the hauling of timber, for a total of 2.92 miles of haul route. A total of 0.29 miles of existing road will be renovated (brought back to its original design) and utilized for wet-season haul and approximately 1.84 miles of existing road will be renovated and used for dry-season haul. Approximately 0.79 miles of newly constructed natural surfaced spurs will be used for dry-season haul.

### **Fuel Treatment**

Slash within 50 feet of logging landings will be machine-piled and burned (under the direction of a written site specific prescription or "Burn Plan"). Approximately 13 acres of slash piles will be burned. Remaining fine fuels generated during the thinning process will be scattered throughout the treatment units.

### **Road Activities**

The action will include dry season and wet season logging activities and use existing roads to the greatest extent practical. Following the project design features described on pg. 9, road construction, renovation, and decommissioning would be restricted to the dry season (normally May 15 to Oct. 15).

### **Construction**

Approximately 0.79 miles of new spur roads (Spurs #1-8) will be constructed. New spur road construction will take place within the harvest unit. Spur roads #1-8 will be natural surfaced and will not be rocked.

#### Renovation

Approximately 2.13 miles of existing roads will be renovated (road no. 26-7-19.0, 26-7-19.6, 26-7-19.7, 26-7-19.8, and 26-7-19.9). Road renovation would consist of installing or maintaining drainage structures (culverts and drainage ditches), reshaping the road surface, replenishing road surface with crushed rock where deficient, and brushing road shoulders.

#### Culverts

A total of 16 culverts will be installed: four on the 26-7-19.0 road, six on the 26-7-19.6 road, five on the 26-7-19.7 road, and one on Spur #1. The 12 culverts on the 26-7-19.6, 26-7-19.7, and Spur #1 will be removed after harvest.

#### Decommissioning

Natural surfaced spurs #1-8 (0.79 miles) and road numbers 26-7-19.6, -19.7, -19.8, and -19.9 (1.84 miles) will be decommissioned by blocking with trench barriers, water-barring, and mulching with logging slash where available or with straw if logging slash is not available. These spurs and roads will not be subsoiled since it is anticipated that they will be needed for future harvest operations. Approximately eight miles of existing and new skid trails will be subsoiled in the ground-based harvest areas.

### **Compliance and Monitoring**

Compliance with this decision will be ensured by frequent on the ground inspections by the Contracting Officer's Representative. Monitoring will be conducted as per the direction given in Appendix I of the RMP (pgs. 189-209).

## **SECTION 2 – PROJECT DESIGN FEATURES**

The following project design features and best management practices (BMPs) are adopted as part of the implementation of this decision to reduce adverse environmental impacts. They are designed to avoid, minimize or rectify impacts on resources. These measures will also help projects meet the objectives of the Aquatic Conservation Strategy.

### **Seasonal Restrictions**

Seasonal restrictions will be applied based on consultation criteria to reduce impacts to federally listed species and in accordance with BMPs to reduce sedimentation impacts to aquatic species, and to reduce soil compaction in order to maintain soil productivity. These restrictions are further described below.

## Project Design Features to Minimize Effects to Wildlife Threatened & Endangered Species

Project design features for Bare Cupboard Commercial Thinning and Density Management were based on project design criteria from the following documents:

- Letter of Concurrence (LOC) regarding the *Reinitiation of consultation on Roseburg District Bureau of Land Management FY 2005-2008 Management Activities* (Ref. # 1-15-05-I-0511 [June 24, 2005]),
- LOC regarding the *Reinitiation of Consultation on Roseburg District Bureau of Land Management FY2005-2008 Management Activities. Disturbance to marbled murrelets.* (Ref. # 1-15-05-I-0596 [July 20, 2005]), and the
- *Upper Umpqua Watershed Plan Decision Record* (October 8, 2003).

### ➤ Bald Eagle

There are no restrictions for bald eagles since there are no known bald eagle nest sites within 0.25 mile or 0.5 mile line-of-sight of the harvest units.

### ➤ Northern Spotted Owl

#### *Disturbance*

There are no known spotted owl sites, activity centers, or unsurveyed suitable habitat within 65 yards of Unit 19A. Therefore, seasonal restrictions for spotted owls are not necessary.

#### *Habitat*

##### Suitable Habitat

- No suitable spotted owl nesting, roosting, and foraging habitat will be removed or modified by this project.

##### Dispersal-only Habitat

- Approximately 220 acres of dispersal-only habitat will be degraded. A minimum average canopy closure of 40-60 percent will be maintained in thinned stands. Therefore, these stands are expected to retain dispersal function because post-project canopy cover will not fall below 40 percent.

### ➤ Marbled Murrelet

#### *Disturbance*

This project is within the Marbled Murrelet Inland Management Zone 2 (within 35-50 miles of the coast). There are no known occupied sites or unsurveyed suitable habitat within 100 yards of Unit 19A. Therefore, seasonal restrictions for marbled murrelets are not necessary.

#### *Habitat*

In accordance with the Letters of Concurrence from the U.S. Fish & Wildlife Service for activities on the Roseburg District (Ref. # 1-15-05-I-0511 [June 24, 2005] and Ref. # 1-15-05-0596 [July 20, 2005]), surveys for potential structure were conducted following Residual Habitat Guidelines (pgs. 68-69, Plan Maintenance for FY2004, *Annual Program Summary & Monitoring Report – FY2005*). No trees meeting the criteria for potential structure for marbled murrelets were discovered within Unit 19A and there is no suitable,

marbled murrelet habitat adjacent to Unit 19A. Therefore, project design features to maintain suitable habitat are not necessary.

➤ Snags

*Riparian Reserves*

Within Riparian Reserves, snags will be retained or created in the following manner in accordance with direction from the *Upper Umpqua Watershed Plan Decision Document* (pgs. 6-7; Oct. 8, 2003):

- Snags greater than 20 inches DBH and greater than 16 feet tall were located and counted on a stand-by-stand basis. Currently, there are approximately six snags meeting the above criteria based on field surveys.
- Tree marking was designed to protect existing snags to the extent possible.
- Those that pose a safety concern will be cut and left for coarse woody debris.
- Within two years of the completion of harvest activities, if there are less than three snags per acre on north slopes and one snag per acre on south slopes, snags would be created on a per acre basis from the larger diameter class of existing live trees to meet the minimum interim needs. Trees damaged from the harvest would be preferentially selected for girdling and recruited as snags. The 71 acres of Riparian Reserve is generally a north slope; therefore, the target number of snags is 213.

*General Forest Management Area*

Within the upland portions of the harvest units (i.e. outside of Riparian Reserves), snags will be retained in the following manner:

- Snags greater than 20 inches DBH and greater 16 feet tall were located and counted on a stand-by-stand basis. Currently, there are approximately seven snags meeting the above criteria based on field surveys. The residual stand following harvest will provide a pool of candidate trees for future snag recruitment and additional snags may be created incidentally through the harvest operations.

➤ Coarse Woody Debris

*Riparian Reserves*

Within Riparian Reserves, coarse woody debris will be retained or created in the following manner in accordance with direction from the *Upper Umpqua Watershed Plan Decision Document* (pg. 7; Oct. 8, 2003):

- All existing coarse woody debris will be retained.
- Within two years of the completion of harvest activities, up to two trees per acre (approximately 142 trees) would be recruited as additional coarse woody debris. Trees that have fallen since the completion of harvest activities will be credited to recruitment of coarse woody debris. Trees damaged from the harvest would be preferentially selected for falling and recruited as coarse woody debris.

*General Forest Management Area*

Within the uplands (i.e. outside of Riparian Reserves), coarse woody debris will be retained or created in the following manner in accordance with RMP guidance:

- During partial harvests early in the rotational cycle it is not necessary to fall the larger dominant or co-dominant trees to provide coarse woody debris logs (pg. 53,

Plan Maintenance for FY1996, *Annual Program Summary & Monitoring Report – FY2005*).

- There is approximately 98 linear feet/acre of decay class 1 or 2 coarse woody debris that is typical of the development cycle of the stand (i.e. at least 8-11 inches diameter). The residual stand following harvest will provide a pool of candidate trees for future coarse woody debris recruitment and additional wood debris may be created incidentally through the harvest operations.

## **Project Design Features to Minimize Erosion and Sedimentation Effects to Aquatic Species**

- To protect aquatic resources within riparian areas a variable width streamside no-harvest buffer has been established along all streams. The buffer width is 10 to 60 feet from the outer edge of the active stream channel for all non-fish bearing streams. The buffer width varies to include areas of instability, wide areas of riparian vegetation, or sensitive areas identified during site review. Variation in the non-fish bearing stream buffer was based on site level review of soils, hydrology, fisheries, vegetation, and riparian habitat:
  - Soil was reviewed for the presence or absence of steep slopes, potential erosion, sedimentation, and soil displacement issues.
  - Hydrology was reviewed for overland and groundwater flow conditions (perennial, seasonal, ephemeral classification, wetlands, seeps, and springs).
  - Fisheries was reviewed for the influence non-fish bearing streams have on downstream aquatic habitat.
  - Vegetation was reviewed for diversity and crown characteristics (ground cover, vegetative composition, stream shading, etc).
  - Riparian habitat was reviewed for the presence of key habitat components (aspect, vegetative composition and structure, snags, downed wood, etc).
- At the minimum, one-tree retention has been maintained along the stream bank for bank stability. Minimum buffer widths have been used primarily on first or second order, ephemeral or highly interrupted intermittent streams, which lack riparian vegetation and where riparian habitat components, soil stability issues, and potential impact to downstream fisheries are also absent. Management within the buffer could include selected felling and/or girdling of trees where doing so will benefit riparian habitat. Trees will not be commercially removed from this buffer area.
- Stream channels and riparian habitat will be protected from logging damage by directionally felling trees that are within 100' of streams generally away from the streams and yarding logs away from or parallel to the streams.
- Yarding corridors parallel to non-fish bearing streams will be at least 40 feet way from the edge of the active stream channel and will be avoided along swale bottoms.
- Skyline yarding is required where cable logging is specified. This method will limit ground disturbance by requiring at least partial suspension during yarding. For all cable yarding, corridors will be generally less than 15 feet in width.



- Partial suspension and waterbarring yarding trails that are excessively furrowed will also reduce the risk of slope failure and limit erosion. Partial suspension lifts or suspends the front end of the log during in-haul to the landing, thereby lessening the “plowing” action that disturbs the soil. In some limited, isolated areas; partial suspension may not be physically possible due to terrain or lateral yarding. Excessive soil furrowing would be hand waterbarred and filled with limbs or other organic debris

## **Project Design Features to Minimize Effects of New Road Construction and Road Use**

- All new roads will be constructed in upland GFMA. No new roads will be constructed in Riparian Reserves. Roads will be available for use during the commercial harvesting contract. These roads will be decommissioned for hydrological purposes (as described on pg. 5) upon completion of the harvesting contract.
- Over-wintering an unsurfaced road for use the following dry season will be allowed in limited cases when the unit size and degree of seasonal restrictions make completing harvest within one dry season impractical. Over-wintering roads will also require waterbarring, mulching with straw, and blocking to traffic.
- Road construction will be located away from streams and not present sedimentation risks. Roads will be located on ridge tops and or stable slopes that do not exceed 50 percent. All new road construction will occur during dry periods of the year, generally between May 15 and the onset of regular fall rains or as determined by weather patterns.
- Erosion control measures (waterbarring, seeding, mulching, straw bales, bioengineering, etc.) will be applied where needed on newly constructed roads, renovated roads, or decommissioned roads where they are within 200 feet of streams.
- Prior to the wet season, all new road construction not surfaced with rock will be waterbarred and blocked to traffic during the same dry season as construction.
- All haul routes used during wet season hauling will be inspected prior to haul activities to assess the current conditions of those roads as they pertain to sedimentation concerns to adjacent streams. Where winter haul occurs along a gravel route with defined stream crossings, road design is either adequate or will be improved. Project design features that reduce sedimentation such as silt fences, gravel lifts, and weather dependant operation specifications are designed to prevent sediment contribution to live streams. Activities will be suspended when conditions are such that meaningfully, measurable stream-sedimentation will occur. The suspension will be lifted when conditions improve or remediation measures are implemented.

## **Project Design Features to Maintain Soil Productivity**

- A harvester/forwarder system is required in the areas designated for ground-based yarding.

- Ground-based operations will only occur when soil moisture conditions limit effects to soil productivity (these conditions generally occur between May 15<sup>th</sup> and the onset of regular fall rains [typically October 15<sup>th</sup>] or may be determined by on-site examination).
- Forwarder trails will be designated. Harvesters will de-limb in front of the machine tracks or tires in order to reduce compaction. The forwarder will operate on branch and limb covered areas traversed by the harvester.
- Main trails, landings and log deck areas will occupy less than 10 percent of the ground-based portions of the units. A main skid trail is defined as a trail in which duff and slash is displaced such that 50 percent or more of the surface area of the trail is exposed to mineral soil.
- Ground based operations will be limited to slopes generally less than 35 percent.
- Skid trails which were created by prior entries will be reused to the extent practical. Such skid trails that are used will be included in the ten percent limit of the ground-based portions of the units.
- To mitigate for soil compaction, approximately eight miles of harvester/forwarder trails, old skid trails, and old roadbed will be sub-soiled. In addition, about one acre of log deck ground along landings will be sub-soiled. Sub-soiled trails and roadbeds will be mulched with logging slash where available (or with straw if logging slash is not available) and topsoil will be pulled back onto the sub-soiled surface.
- Harvesters would cut trees no further than twelve inches from the ground so that there will be enough stump clearance for sub-soiling excavators. Harvesters will de-limb trees in the trails in front of their advance to cushion against compaction
- Slash piles will be burned during the late fall to mid-spring season when the soil and duff layer (soil surface layer consisting of fine organic material) moisture levels are high (BMP III D1b, pg. 140) and the large down logs have not dried. This practice will protect the soil duff layer and down logs from being totally consumed by fire and the surface layer from being negatively altered (i.e., loss of organic matter, erosion, change of soil physical properties, alteration of soil ecology and soil nutrients).

### **Project Design Features to Minimize Effects from Noxious Weeds**

- Project level weed surveys and watershed level weed inventories have been performed.
- Prior to ground disturbance, existing patches of Himalayan blackberry and Scotch broom weed infestations within the project area will be treated.
- Construction and logging equipment/machinery associated with ground disturbance will be cleaned prior to moving into the proposed project site to remove weed seed and help control and prevent the spread of noxious weed seed.

- Areas of ground disturbance will be reseeded with native grass seed or a suitable alternative following ground disturbance.
- Noxious weed infestations and reseeded results at project sites will be monitored following ground disturbance.

### **Miscellaneous Project Design Features**

- **Hazardous materials** (particularly petroleum products) will be stored in durable containers and located so that any accidental spill will be contained. All landing and work site trash and logging materials will be removed. Equipment that leaks hazardous materials will not be allowed instream. Accidental spills or discovery of the dumping of any hazardous materials will be reported to the Sale Administrator. Procedures outlined in the “Roseburg District Hazardous Materials (HAZMAT) Emergency Response Contingency Plan” will be followed.
- **Cultural resources** - A cultural resource inventory was completed. No cultural resources were identified. Stipulations will be placed in the contract to halt operations in the event of inadvertent discoveries of new cultural resource sites (e.g. historical or prehistorical ruins, graves, fossils or artifacts)

### **References**

Daniel, T.W., J. Helms, and F. Baker. 1979. Principles of Silviculture. McGraw Hill Book Company, 2<sup>nd</sup> edition.

## **SECTION 3 – THE DECISION RATIONALE**

This decision implements the guidance provided in the Upper Umpqua Watershed Plan Decision signed October 8, 2003 for that portion of the plan covering the Bare Cupboard project area. It incorporates the “adjustments made” as described in the Upper Umpqua Watershed Plan decision (pgs. 3-9).

The project design features listed above will minimize soil compaction, limit erosion, protect slope stability, protect wildlife, protect air and water quality, and protect fish habitat, as well as protect other identified resource values. I have reviewed the resource information contained in Table 1 “Summary of Effects of the Action” (below) and in Appendices A-J (available upon request from the Swiftwater Field Office). This decision recognizes that impacts could occur to some of these resources; however, the impacts to resource values will not exceed those identified in the *Final - Roseburg District Proposed Resource Management Plan / Environmental Impact Statement* (PRMP/EIS, 1994). This decision provides timber commodities resulting from silvicultural treatments whose effects to the environment are within those anticipated and already analyzed in the RMP/EIS.

As a result of this decision, the commercial thinning and density management actions that will be undertaken to: (1) maintain healthy growth rates and contribute timber for the local and regional economy while protecting certain forest components for wildlife in stands on BLM GFMA lands,

(2) accelerate stand diversity in mid-seral forests on BLM lands within the Riparian Reserves, and (3) enhance the development of aquatic habitat.

The variable low-residual density thinning within the Riparian Reserves will develop late-successional characteristics more quickly which will, in turn, improve the quality of dispersal habitat for the spotted owl, as well as provide future nesting habitat for the northern spotted owl and marbled murrelet. It is expected that additional silvicultural treatments of the affected stands will be required at some point in the future in this long-term process to accomplish terrestrial habitat objectives. However, this decision neither determines the nature of those future actions, nor places constraints on them.

My predecessor reviewed the public comments from the EA (see Section 4, pg. 13) and provided additional time for interested parties to develop input and to participate in a field tour of the project area. This interactive participation resulted in substantive adjustments in the proposed action initially presented in the Upper Umpqua Watershed Plan EA. These adjustments were incorporated in the Upper Umpqua Watershed Plan Decision signed October 8, 2003 and subsequently in the project design features for this project.

### **Survey and Manage**

The Bureau of Land Management (BLM) is aware of the August 1, 2005, U.S. District Court order in Northwest Ecosystem Alliance et al. v. Rey et al. which found portions of the *Final Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (January, 2004) (EIS) inadequate. Subsequently in that case, on January 9, 2006, the Court ordered:

- set aside the 2004 Record of Decision *To Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines in Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern spotted Owl* (March, 2004) (2004 ROD) and
- reinstate the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measure Standards and Guidelines* (January, 2001) (2001 ROD), including any amendments or modifications in effect as of March 21, 2004.

The BLM is also aware of the November 6, 2006, Ninth Circuit Court opinion in Klamath-Siskiyou Wildlands Center et al. v. Boody et al., No. 06-35214 (CV 03-3124, District of Oregon). The court held that the 2001 and 2003 Annual Species Reviews (ASRs) regarding the red tree vole are invalid under the Federal Land Policy and Management Act (FLPMA) and National Environmental Policy Act (NEPA) and concluded that the BLM's Cow Catcher and Cotton Snake timber sales violate federal law.

This court opinion is specifically directed toward the two sales challenged in this lawsuit. The BLM anticipates the case to be remanded to the District Court for an order granting relief in regard to those two sales. At this time, the ASR process itself has not been invalidated, nor have all the changes made by the 2001-2003 ASR processes been vacated or withdrawn, nor have species been reinstated to the Survey and Manage program, except for the red tree vole. The Court has not yet specified what relief, such as an injunction, will be ordered in regard to the Ninth Circuit Court opinion. Injunctions for NEPA violations are common but not automatic.

The Swiftwater Field Office will re-examine individual project level NEPA documents (environmental assessments) in light of any pertinent court ordered remedy and will make revisions to such documents as necessary following issuance of the court's judgment. We have provided advance notice to potential purchasers informing them that the court's ruling may result in delays in award of the sale to the high bidder or suspensions of operations in the special provisions of the timbersale contract. Appropriate processes are in place to provide BLM the ability to delay award of timber sales or issue suspensions should they become necessary.

We do not expect that the litigation over the Annual Species Review process in Klamath-Siskiyou Wildlands Center et al. v. Boody et al will affect this project, because the development and design of this project exempt it from the Survey and Manage program. In Northwest Ecosystem Alliance et al. v. Rey et al the U.S. District Court modified its order on October 11, 2006, amending paragraph three of the January 9, 2006 injunction. This most recent order directs:

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

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

The Swiftwater Field Office has reviewed the objectives of Bare Cupboard Commercial Thinning and Density Management as described previously in this decision (pg. 2). Bare Cupboard is a commercial thinning and density management project on 220 acres of forest stands that are approximately 51 years old. For the foregoing reason, it is my determination that Bare Cupboard Commercial Thinning and Density Management meets exemption "a" above. Therefore, the decision to eliminate Survey and Manage is effective on this project.

## **SECTION 4 – PUBLIC INVOLVEMENT**

For the Upper Umpqua Watershed Plan Environmental Assessment, comments were solicited from affected tribal governments, adjacent landowners and affected State and local government agencies. No comments were received from these sources. During the seventy-five day public review period for the Upper Umpqua Watershed Plan, comments were received from four individuals or organizations. As previously described in Section 3, comments and subsequent interaction with the public helped formulate the Upper Umpqua Watershed Plan decision (October 8, 2003) and is reflected in both that decision (pgs. 3-9) and in the project design

features for this project as described here (February 24, 2006).

In response to the Roseburg District's Spring 2006 Planning Update, one comment was received pertaining to off-highway vehicle use in Section 32, T. 26 S., R. 07 W., W.M. This section is no longer included in the Bare Cupboard project due to changes in the harvest plan un-related to off-highway vehicle use. However, trails and roads used by off-highway vehicles in the Hubbard Creek area were mapped in 2002. The Swiftwater Field Office has also opened dialogue with cooperators to address off-highway vehicle management in the Hubbard Creek area.

No further comments or information have been received pertaining to the design of Bare Cupboard Commercial Thinning and Density Management project.

## **SECTION 5 – PROTEST PROCEDURES**

The decision described in this document is a forest management decision and is subject to protest by the public. In accordance with Forest Management Regulations at 43 CFR § 5003 Administrative Remedies, protests of this decision may be filed with the authorized officer [Marci Todd] within 15 days of the publication date of the notice of decision/timber sale advertisement in *The News-Review*, Roseburg, Oregon.

43 CFR § 5003.3 subsection (b) states that: "Protests shall be filed with the authorized officer and shall contain a written statement of reasons for protesting the decision." This precludes the acceptance of electronic mail or facsimile protests. Only written and signed hard copies of protests that are delivered to the Roseburg District Office will be accepted. The protest must clearly and concisely state the reasons why the decision is believed to be in error.

Protests received more than 15 days after the publication of the notice of decision/timber sale advertisement are not timely filed and shall not be considered. Upon timely filing of a protest, the authorized officer shall reconsider the decision to be implemented in light of the statement of reasons for the protest and other pertinent information available to her. The authorized officer shall, at the conclusion of her review, serve her decision in writing to the protesting party. Upon denial of a protest the authorized officer may proceed with the implementation of the decision.

For further information, contact Marci Todd, Field Manager, Swiftwater Field Office, Roseburg District, Bureau of Land Management, 777 NW Garden Valley Blvd; Roseburg, OR. 97470, 541 440-4931.

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Date

**Table 1.** Summary of Effects of the Action: Bare Cupboard Commercial Thinning & Density Management.

Context (What?)	Intensity (How Much?)	Reason for not being Significant.
<b>Cultural Resources</b>		
<b>Cultural Resources.</b>	Surveys were conducted (October, 2001) for cultural resources and Section 106 responsibilities under the National Historic Preservation Act were completed, in accordance with the 1998 Oregon State Historic Preservation Office protocols. No cultural or historic resources were identified.	There will be no impacts to cultural or historical resources.
<b>Botany &amp; Noxious Weeds</b> (refer to <i>Appendices B</i> for details)		
Federally threatened (FT) <b>Kincaid's lupine</b> and the federally endangered (FE) <b>rough popcorn flower</b> .	Surveys were completed (August, 2005) and no sites were discovered.	No impacts to these two federally listed plant species will occur since there are no known sites within the project area.
<b>Survey &amp; Manage (S&amp;M) Species.</b>	Bare Cupboard Commercial Thinning and Density Management meets one of the exemption criteria for Survey and Manage from the October 11, 2006 U.S. District Court Order (refer to pgs. 12-13 for details).	The decision to eliminate Survey and Manage is effective on this project.
<b>Bureau Sensitive (BS), Assessment (BA), and Tracking (BT) Species.</b>	Surveys were completed (April-August, 2005) and no sites were discovered.	No impacts to BS, BA, or BT botanical species will occur since there are no known sites within the project area.
<b>Noxious weeds</b> (i.e. Himalayan blackberry and Scotch broom) in the project area.	The 26-7-19.0 road has scattered patches of Himalayan blackberry (approx. one acre) and Scotch broom (approx. one half acre).	The roads will be treated both chemically and mechanically in FY2007. The project area will be monitored for treatment effectiveness and follow-up treatments will be conducted as necessary. The project design features will minimize the spread of noxious weeds.
<b>Fisheries</b> (refer to <i>Appendix C</i> for details)		
<b>Oregon Coast Coho Salmon</b> (NMFS)	Prior to NMFS's determination, the	Project would not adversely affect the

Context (What?)	Intensity (How Much?)	Reason for not being Significant.
determined that the Oregon Coast coho ESU does not warrant listing under the ESA at this time and therefore withdrew the proposed listing [Fed. Reg., Vol. 71 No. 12, Jan. 19, 2006]). However, under OR/WA BLM guidelines, the coho is considered Bureau Sensitive.	Roseburg District made a determination that this project would result in a “may effect, not likely to adversely affect [NLAA]” in the Upper Umpqua Watershed Density Management Plan Biological Assessment (Sept. 30, 2005) prepared for consultation with NMFS.	Oregon Coast Coho Salmon.
<b>Essential Fish Habitat (EFH)</b> for Coho Salmon and Chinook salmon.	Conservation measures incorporated into the project design features will prevent adverse effects to essential fish habitat.	Project will not adversely affect essential fish habitat. Therefore, consultation with National Marine Fisheries Service is not required.
<b>Bureau Sensitive (BS), Assessment (BA), and Tracking (BT) Species.</b>	Oregon Coast coho salmon (BS) and Coastal Cutthroat (BT) are documented within the project area. Umpqua Chub (BS) and Pacific Lamprey (BT) are suspected downstream of the project area.	Project design features will minimize soil erosion and sedimentation effects to aquatic species and aquatic habitat.
<b>Hydrology</b> (refer to <i>Appendix D and E</i> for details)		
<b>Peak Flows</b> within the Analytical Hydrologic Units (AHU).	Commercial thinning and density management are not expected to have any measurable impact on peak flow within fish-bearing waters below the treatment areas. At the project level there may be increases in peak flows during smaller storm events (less than two year interval) in small non-fish bearing streams.	No measurable change in peak flows.
<b>Sedimentation.</b>	Project design features will minimize soil erosion and sedimentation effects to aquatic species and aquatic habitat. Sediment produced, as a result of haul, would be of such small magnitude that it would not be meaningfully measurable.	Sedimentation would be maintained below meaningfully measurable levels or haul would be suspended.
<b>Soils</b> (refer to <i>Appendix F</i> for details)		



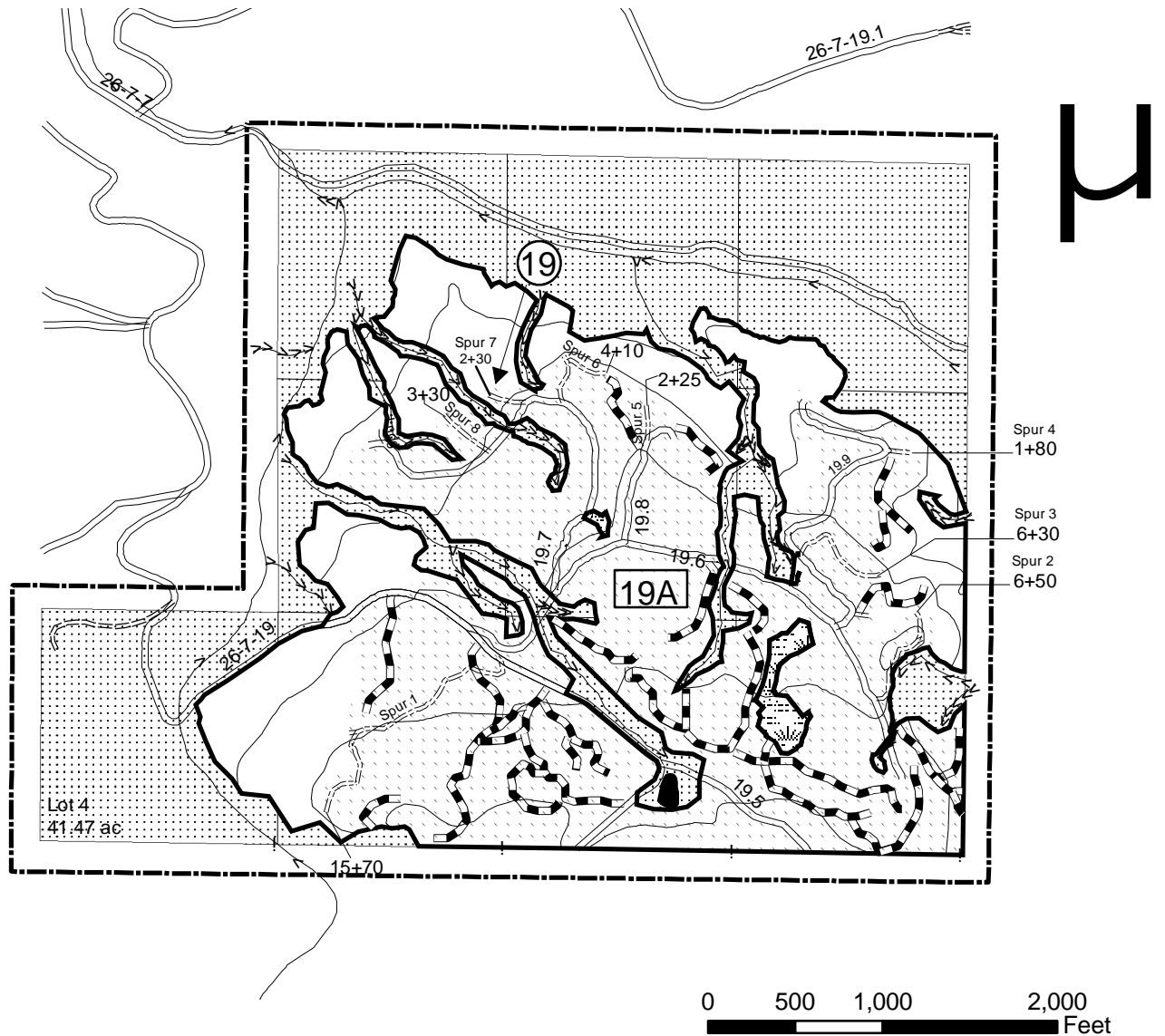
Context (What?)	Intensity (How Much?)	Reason for not being Significant.
<b>Mass Wasting and Landslides.</b>	The probability of landslides or mass wasting events will not be increased nor decreased by the project.	The actions authorized under this decision do not change the probability of landslides or mass wasting events.
<b>Soil Productivity.</b>	Following timber treatment and subsequent sub-soiling as described above (pg. 5), it is estimated that there will be a net improvement in soil productivity on approximately 3.6 acres.	Sub-soiling amelioration will accelerate the long-term recovery of soil-productivity.
<b>Wildlife</b> (refer to <i>Appendices G, H, I, and J</i> for details).		
In accordance with the Endangered Species Act, <b>consultation</b> with the U.S. Fish and Wildlife Service (USFWS) has been completed for the federally threatened (FT) bald eagle, northern spotted owl, and marbled murrelet and for spotted owl critical habitat and murrelet critical habitat.	A letter of concurrence from the USFWS for the re-initiation of consultation on Roseburg District Bureau of Land Management FY 2005-2008 Management Activities (Ref. # 1-15-05-I-0511) was received June 24, 2005 and amendment regarding disturbance to marbled murrelets in Zone 2 was received July 20, 2005 (Ref. # 1-15-05-I-0596).	The USFWS concurred that this action is not likely to adversely affect the bald eagle, spotted owl, spotted owl critical habitat, murrelet, and murrelet critical habitat (pg. 30 [Ref. # 1-15-05-I-0511] and pg. 6 [Ref. # 1-15-05-I-0596]). Project design features will be implemented in compliance with the letters of concurrence.
<b>Bald Eagle.</b>	No noise/visual disruption effects to bald eagles will occur due to this action since there are no known nests within 0.5 mile of the harvest units. Based on 2006 surveys, the nearest nest site (Woodruff Mountain) is approximately five miles away. No suitable habitat will be removed or modified.	No disruption effects to bald eagles will occur and suitable nesting habitat will not be modified.
<b>Noise/Visual Disruption of Northern Spotted Owl</b> nesting behaviors.	No noise/visual disruption effects to spotted owls will occur due to this action since there are no known spotted owl nests, activity centers, or unsurveyed suitable habitat are within 0.25 mile of the harvest units.	No disruption effects to spotted owls will occur.
<b>Northern Spotted Owl Habitat.</b> There	Commercial thinning and density	Commercial thinning and density

<b>Context (What?)</b>	<b>Intensity (How Much?)</b>	<b>Reason for not being Significant.</b>
<p>are three northern spotted owl sites that are located within 1.5 miles (Coast Range provincial home range) of the proposed harvest units. The Camp Creek and Melrose sites have established 100 acre Known Owl Activity Centers (KOACs).</p>	<p>management will degrade 220 acres of dispersal habitat but will not alter the ability of that stand to function as dispersal habitat. Since the treated stands will not be modified below 40% canopy cover, the stands will still function as dispersal habitat.</p> <p>No suitable habitat will be modified or removed.</p>	<p>management of the mid-seral stands will improve the quality of dispersal habitat within 5-10 years. Density management within the Riparian Reserves will diversify the forest for spotted owl use by developing larger diameter trees with multiple canopy layers over the next 150 years. Beneficial effects to dispersal habitat from commercial thinning would persist until the upland Matrix portions of the stands undergo final harvest in the future.</p> <p>The USFWS concurs that this action is not likely to adversely affect spotted owls (pg. 19) [Ref. # 1-15-05-I-0511].</p>
<p><b>Critical Habitat for the Northern Spotted Owl.</b></p>	<p>This project is not within designated critical habitat for the northern spotted owl.</p>	<p>There is no effect to critical habitat for the northern spotted owl from this action.</p>
<p><b>Noise/Visual Disruption of Marbled Murrelet</b> nesting behaviors. The project area is located approximately 37 miles from the coast, within Zone 2.</p>	<p>There is no unsurveyed suitable habitat or occupied sites within or adjacent to Unit 19A. The harvest unit is approximately six miles from the nearest known occupied marbled murrelet site (Rattlesnake [MSNO-R3004]).</p>	<p>This action will not disrupt marbled murrelet nesting behaviors.</p> <p>The USFWS concurs that the commercial thinning and density management activities are not likely to adversely affect marbled murrelets (pg. 6 [Ref. # 1-15-05-I-0596]).</p>
<p><b>Marbled Murrelet Habitat.</b></p>	<p>Suitable nesting habitat will not be removed within or adjacent to the project area.</p> <p>Within the stands prescribed for commercial thinning and density management under this decision, surveys</p>	<p>Commercial thinning and density management will facilitate the development of future nesting habitat by increasing tree and limb growth rates; fostering the development of nesting platforms. In addition, thinning younger trees from around the older, large limbed</p>

Context (What?)	Intensity (How Much?)	Reason for not being Significant.
	for trees with suitable platform structures were conducted (September, 2006) following the Residual Habitat Guidelines and no potential nest trees were discovered. Therefore, there is no suitable murrelet habitat within the stand.	trees would allow greater access for nesting providing an opportunity for murrelets to occupy these stands earlier.  Beneficial effects to potential nesting habitat from commercial thinning would persist until the upland Matrix portions of the stands undergo final harvest in the future.  The USFWS concurs that the commercial thinning and density management activities are not likely to adversely affect marbled murrelets (pg. 10 [Ref. # 1-15-05-I-0511]).
<b>Critical Habitat for the Marbled Murrelet.</b>	This project is not within designated critical habitat for the marbled murrelet.	There is no effect to critical habitat for the marbled murrelet from this action.
<b>Survey &amp; Manage (S&amp;M) Species.</b>	Bare Cupboard Commercial Thinning and Density Management meets one of the exemption criteria for Survey and Manage from the October 11, 2006 U.S. District Court Order (refer to pgs. 12-13 for details).	The decision to eliminate Survey and Manage is effective on this project.
<b>Purple Martin</b> (Bureau Sensitive).	The harvest unit does not contain suitable habitat (e.g. open areas with snags) for purple martins but there is a known colony 1.8 miles southwest of the project area. Purple martins may forage over the canopy of the existing stand.	The action will not affect the forage opportunities or quality for purple martins in a measurable way.
<b>Spotted tail-dropper</b> (Bureau Sensitive).	The harvest unit contains habitat suitable for the spotted tail-dropper (e.g. moist coniferous forest with a substantial hardwood component), but there are no known sites within the project area.	No impact to the spotted tail-dropper will occur since the post-treatment stand condition appears to fall within the range of suitability for this species and its conspecifics.

Context (What?)	Intensity (How Much?)	Reason for not being Significant.
Remaining <b>Bureau Sensitive (BS)</b> and <b>Bureau Assessment (BA)</b> Species.	Evaluation of the remaining BS and BA wildlife species was completed in November, 2006 and no known sites or concerns were identified (except for the purple martin and spotted tail-dropper as discussed above).	No impacts to the remaining BS or BA wildlife species will occur since there are no known sites within the project area.
<b>Bureau Tracking (BT)</b> Species.	There are no known detections of BT species within the project area.	Districts are encouraged to collect occurrence data on BT species but they will not be considered as Special Status Species for management purposes (IM-OR-2003-054).

**Figure 1. Bare Cupboard Commercial Thinning and Density Management.**



**LEGEND**

- |   |                              |   |                                      |
|---|------------------------------|---|--------------------------------------|
|  | Harvest Area - Cable Yarding |  | Existing Road                        |
|  | Harvest Area - Ground Based  |  | Spur To Be Constructed               |
|  | Reserve Area                 |  | Boundary of Cutting Area             |
|  | Wet Area/Pond                |  | Boundary of Contract Area            |
|   |                              |  | Stream                               |
|   |                              |  | Found Corner                         |
|   |                              |  | Existing Skid Trails to be Subsoiled |