

## Clear Dodger Projects - Reissue

### Final Decision and Decision Rationale for Clear Dodger Project 1

Environmental Assessment Number OR080-03-03

February 2006

United States Department of the Interior  
Bureau of Land Management  
Oregon State Office  
Salem District  
Cascades Resource Area

Township 4 South, Range 4 East, Sections 13, 23, 24 and 25,  
Township 4 South, Range 5 East, Section 30, Willamette Meridian  
Lower Clackamas River and Middle Clackamas River 5<sup>th</sup> field Watersheds.  
Clackamas County, Oregon

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As the Nation's principal conservation agency, the Department of Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering economic use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interest of all people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. administration.

**BLM/OR/WA/PL-06/004+1792**

## I. Introduction

The Bureau of Land Management (BLM) conducted an environmental analysis documented in the *Clear Dodger Timber Harvest, Road Management and Riparian Restoration Plan* (EA # OR080-03-03) (original EA), dated March 31, 2003, and then issued a decision documented in the *Clear Dodger Timber Sale Final Decision Documentation and Decision Rationale*, dated July 29, 2003 (original Decision Rationale), based on this analysis. The selected action was to thin approximately 143 acres of mixed conifer (predominately even-aged Douglas-fir with western hemlock, and western red cedar) stands within the GFMA (Matrix) Land Use Allocation (LUA). The decision was protested, appealed, and subsequently remanded by the Interior Board of Land Appeals (IBLA) back to the BLM.

The original EA was revised to incorporate new information, to clarify the proposal and the concerns that were raised during the original EA public comment period, and to address protest and appeal points regarding the Clear Dodger selected action documented in the original Decision Rationale. The revised EA is called the *Clear Dodger Projects- Reissue Environmental Assessment and Finding of No Significant Impact*, which will be referred to from this point as the EA.

The decision documented in this Decision Rationale (DR – Project 1) is a reissue of the decision documented in the original Decision Rationale, and is based on the analysis documented in the EA. This decision authorizes the implementation of only those activities directly related to and included within the timber sale (Project 1). A separate decision will be issued concerning the Riparian Management proposal (Project 2) (EA pp. 13, 61-64).

## II. Decision

I have decided to implement the Clear Dodger Project 1 as described in the proposed action (EA pp. 14-20). This decision is based on site-specific analysis in the Clear Dodger Projects - Reissue Environmental Assessment (EA # OR080-03-03), the supporting project record, management recommendations contained in the Upper Clear Creek and Lower Clackamas River Watershed Analysis; as well as the management direction contained in the Salem District Resource Management Plan (May 1995), which are incorporated by reference in the EA.

The alternative selected in this Decision Rationale is the same alternative selected in the original Decision Rationale. No material changes have been made “on the ground”. The maps of the selected action can be found on pages 5-7 of this Decision Rationale. The following is a summary of this decision:

1. **Timber Harvest:** Approximately 143 acres of 65 to 90 year old mixed-conifer stands will be thinned by removing suppressed, co-dominant, and occasional dominant trees (thinning from below). Generally, the largest trees would be left. Average canopy closure would be no less than 40 percent after harvest. Approximately 94 percent of the project area would be harvested using conventional ground-based logging equipment, and approximately 6 percent would be harvested using skyline yarding systems.

2. **Road Work**

- Approximately 0.05 mile of new road construction would occur to access A1 (Unit 5) and to facilitate logging a portion of C1 (unit 6). Up to 0.25 acre of vegetation would be cleared for the road rights-of-way, which includes the area needed for adjacent landings. Two new culverts would be installed in the existing ditch line of the Hillockburn Road, where new construction joins this road. New roads and landings would be decommissioned and blocked following timber harvest and site preparation operations.
- Up to 4.7 miles of existing roads under BLM and private control would be renovated as necessary to accommodate log-hauling. This would include brushing, blading, drainage structure improvement or replacement, and spot rocking at deficient locations. Maintenance or replacement would occur at nine culvert locations. Three culverts would be replaced (See Unit Map - Sections 24, 25, EA Section 2.2.5).
- Approximately 1.5 miles of existing roads would be reshaped and waterbarred to stabilize drainage patterns. These roads would be blocked using a trench and berm after completion of the project.

3. **Fuels Treatments:** Trees would be directionally felled away from Hillockburn Road in order to reduce the amount of slash adjacent to the road. The timber sale contract would require the purchaser to remove all fuels created by their operations from within 40 feet of the Hillockburn Road. This logging slash and debris would be hand piled, covered and burned (RMP p. 65). After harvest operations are completed landing debris would also be piled, covered and burned.

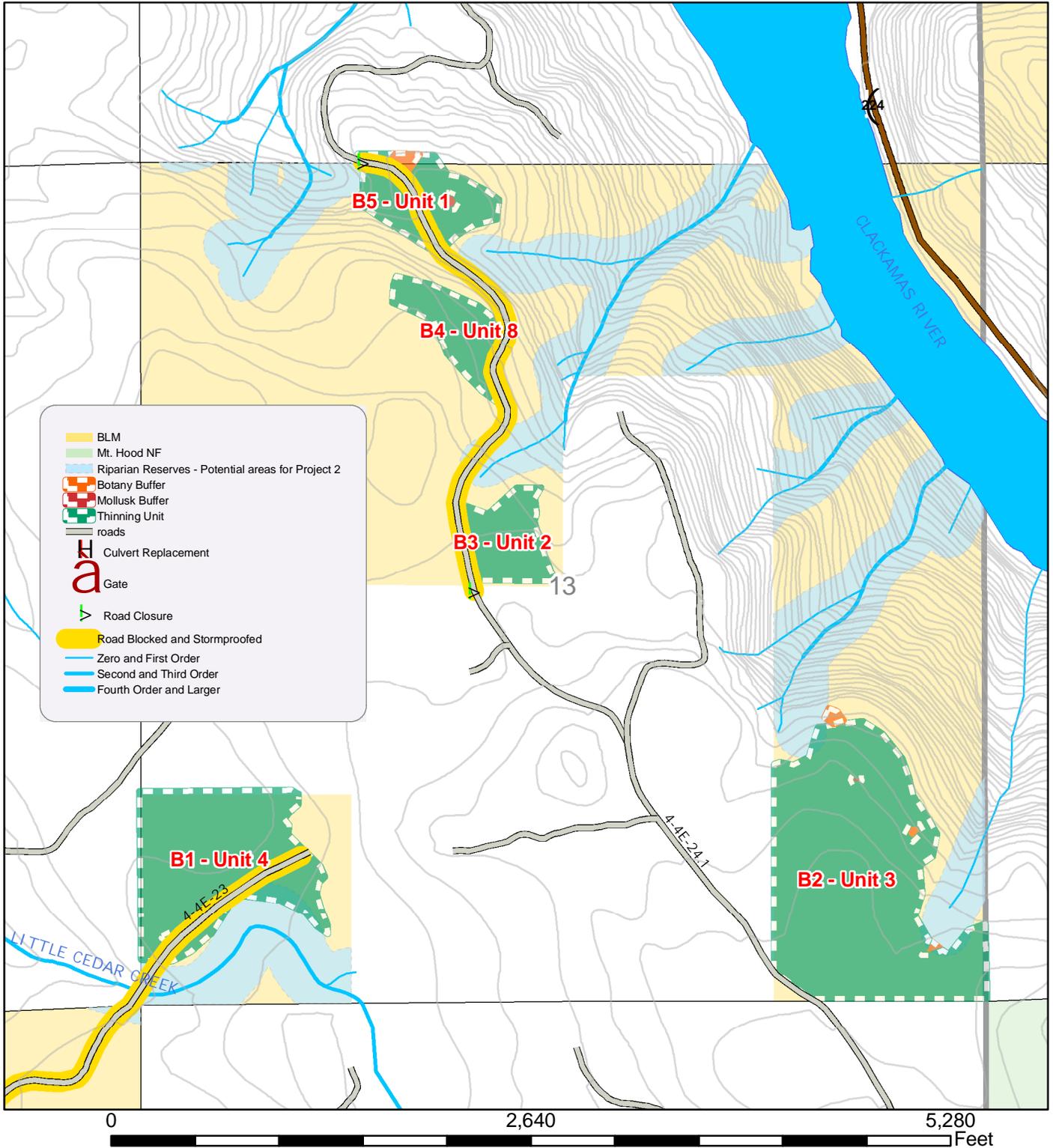
4. **Tree Topping:** Two green trees per acre (Total of approximately 290 trees) would be topped for snag recruitment (RMP p.21).

5. **Blocking Potential Off-Highway Vehicle (OHV) Trails (RMP p. 41):** Access to skid trails would be blocked off by leaving logging debris to prevent OHVs from driving on skid trails.

All design features and mitigation measures described in the EA (pp. 17 - 20) are incorporated into the timber sale contract.

# Clear Dodger Project Unit Map

## Township 4 South, Range 4 East, Section 13



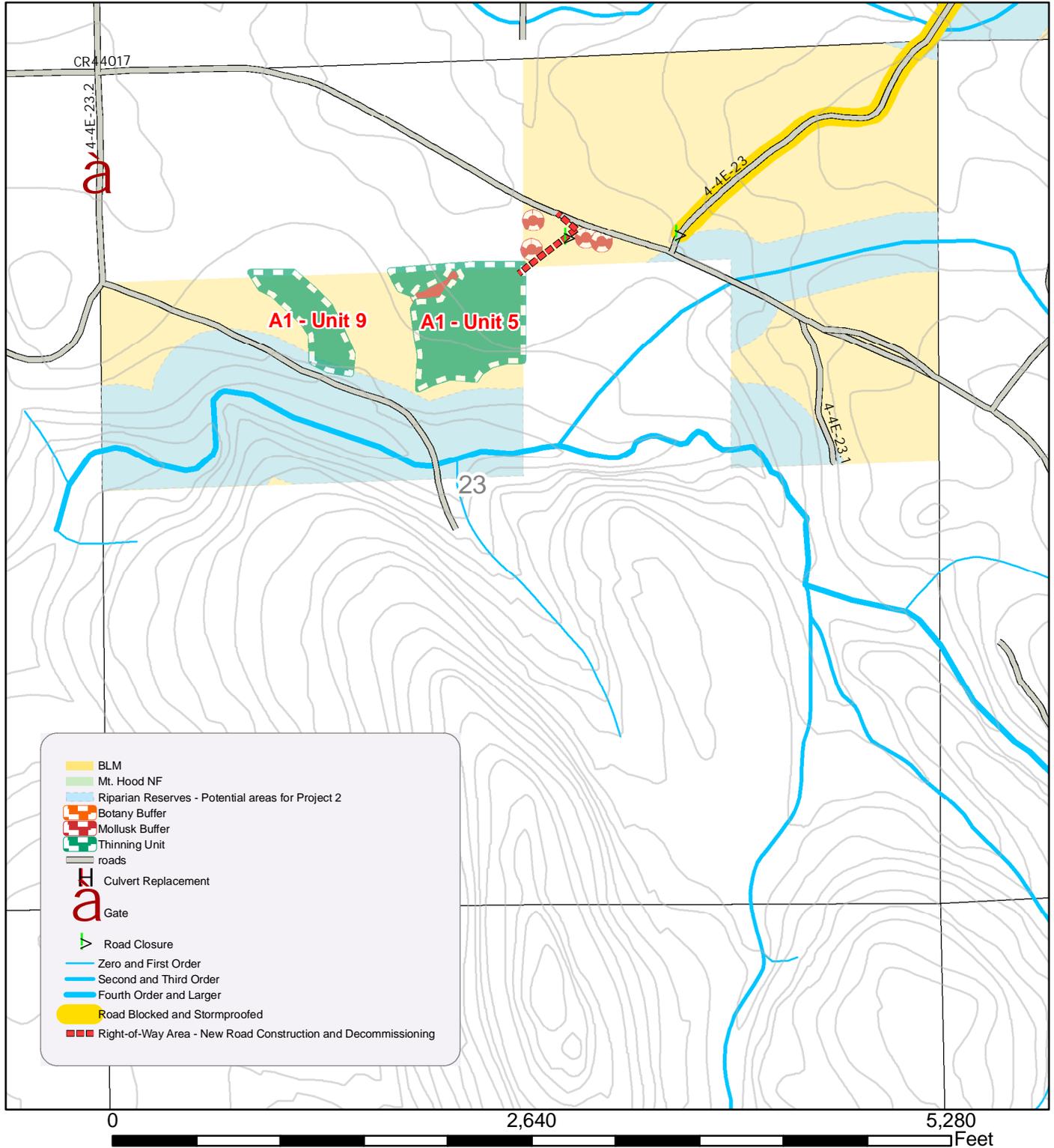
- BLM
- Mt. Hood NF
- Riparian Reserves - Potential areas for Project 2
- Botany Buffer
- Mollusk Buffer
- Thinning Unit
- roads
- a Culvert Replacement
- G Gate
- Road Closure
- Road Blocked and Stormproofed
- Zero and First Order
- Second and Third Order
- Fourth Order and Larger

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# Clear Dodger Project Unit Map

## Township 4 South, Range 4 East, Section 23



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No warranty is made by the Bureau of Land Management as to the accuracy, reliability or completeness of these data for individual or aggregate use with other data. Original data was compiled from various source data and may not meet U.S. National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.





### III. Compliance with Direction:

The analysis documented in the Clear Dodger – Revised EA is site-specific and supplements analyses found in the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994 (RMP/FEIS). This project has been designed to conform to the *Salem District Record of Decision and Resource Management Plan*, May 1995 (RMP) and related documents which direct and provide the legal framework for management of BLM lands within the Salem District (EA pp. 11-12). All of these documents may be reviewed at the Cascades Resource Area office.

#### Survey and Manage Species Review

This project fully complies with the 2001 Survey and Manage Record of Decision. All surveys conducted in 1999 and 2000 on the Clear Dodger project area are in full and complete compliance with the 2001 FSEIS and ROD, as modified by the 2003 Annual Species Review (ASR). This project is in compliance with Judge Marsha Pechman's January, 2006 ruling on the 2004 Record of Decision for Survey and Manage Standards and Guidelines, as stated in Point (3) on page 14 of the January 9, 2006, Court order in Northwest Ecosystem Alliance et al. v. Rey et al. (Clear Dodger DR Appendix B and C – Compliance with Survey and Manage Direction). No additional surveys are planned for the area as currently designed.

#### Northern Spotted Owl (NSO) Status Review:

The following information was considered in the analysis of proposed project: a/ *Scientific Evaluation of the Status of the Northern Spotted Owl* (Sustainable Ecosystems Institute, Courtney et al. 2004); b/*Status and Trends in Demography of Northern Spotted Owls, 1985-2003* (Anthony et al. 2004); c/ *Northern Spotted Owl Five Year Review: Summary and Evaluation* (USFWS, November 2004); and d/*Northwest Forest Plan – The First Ten Years (1994-2003): Status and trend of northern spotted owl populations and habitat, PNW Station Edit Draft* (Lint, Technical Coordinator, 2005). To summarize these reports, although the agencies anticipated a decline of NSO populations under land and resource management plans during the past decade, the reports identified greater than expected NSO population declines in Washington and northern portions of Oregon, and more stationary populations in southern Oregon and northern California.

The reports did not find a direct correlation between habitat conditions and changes in NSO populations, and they were inconclusive as to the cause of the declines. Lag effects from prior harvest of suitable habitat, competition with Barred Owls, and habitat loss due to wildfire were identified as current threats; West Nile Virus and Sudden Oak Death were identified as potential new threats. Complex interactions are likely among the various factors. This information has not been found to be in conflict with the NWFP or the RMP (*Evaluation of the Salem District Resource Management Plan Relative to Four Northern Spotted Owl Reports, September 6, 2005*).

### IV. Alternatives Considered

#### Alternatives Considered but Not Analyzed in Detail

The following action alternatives were evaluated and but not included in detailed analysis (EA pp. 20-21):

1. Regeneration Harvest was considered for B2 (Unit 3). This alternative was dropped after a review of the stand exam data revealed that the stand has not yet reached culmination of mean annual increment.
2. Decommissioning Existing Roads:
  - SW corner of Section 13: One proposed alternative was to decommission an existing road that accesses the southwest corner of Section 13, and to restore the riparian reserve where this road traverses it. This alternative was dropped because the road is still needed for future management. Under the current proposed action this road would be blocked and storm proofed (See Unit Map – Section 13, EA section 2.2.5)
  - Other Road Decommissioning: Approximately 2,200 feet (0.4 mile) of existing roads were proposed for road decommissioning in the original EA. During the analysis, it was determined that these roads were needed for future management, so the proposed action was changed to block and storm proof the roads instead of decommissioning them.
3. No New Road Construction – a recommendation from public: An alternative with no new road construction was considered but not analyzed in detail because without road construction, stands would have to be dropped from the propose thinning treatments. Road construction has been kept to a minimum. Page 15 of the EA states that the two new road segments proposed for construction total approximately 0.05 mile (less than 275 feet). The EA states on page 43 that the road locations are flat and have no hydrologic connections. The proposed road construction meets the purpose and need to provide access for timber harvest and silvicultural practices (EA section 2.1), yet also addresses the concerns raised associated with road construction.

Alternatives Considered in Detail:

The EA analyzed the effects of the proposed action and the no action alternatives. Complete descriptions of the "action" and "no action" alternatives are contained in the EA, pages 13-20.

## **V. Decision Rationale**

Considering public comment, the content of the EA and supporting project record, the management recommendations contained in the Upper Clear Creek and Lower Clackamas River Watershed Analysis, and the management direction contained in the RMP, I have decided to implement the selected action as described above. The following is my rationale for this decision.

1. The selected action:
  - Meets the purpose and need of the project (EA section 2.1), as shown in *Table 1*.
  - Complies with the *Salem District Record of Decision and Resource Management Plan*, May 1995 (RMP) and related documents which direct and provide the legal framework for management of BLM lands within the Salem District (EA pp. 11-12), (DR p. 8).

- All surveys conducted in 1999 and 2000 on the Clear Dodger project area are in full and complete compliance with the 2001 Survey and Manage FSEIS and ROD, as modified by the 2003 Annual Species Review (ASR). This project is in compliance with Judge Marsha Pechman's January, 2006 ruling on the 2004 Record of Decision for Survey and Manage Standards and Guidelines, as stated in Point (3) on page 14 of the January 9, 2006, Court order in Northwest Ecosystem Alliance et al. v. Rey et al. (DR Appendix B and C – Compliance with Survey and Manage Direction). No additional surveys are planned for the area as currently designed.
- Complies with new information on northern spotted owl (EA p. 12, DR p.8).
- Would not have significant impact on the affected elements of the environment (EA FONSI pp. 5-8) beyond those already anticipated and addressed in the RMP EIS.
- Has been adequately analyzed.

**Table 1: Comparison of the Alternatives with Regard to the Purpose of and Need for Action (EA section 2.1)**

<i>Purpose and Need (EA section 2.1)</i>	<i>No Action</i>	<i>Selected Action</i>
Develop timber sales that can be successfully offered to the market place; achieve a desirable balance between wood volume production, quality of wood, and timber value at harvest (RMP p. D-3); and provide a sustainable supply of timber as described in the RMP (p. 1, 46, 47)	Does not fulfill.	Fulfills.
Retain elements that provide ecosystem diversity (snags, old growth trees, etc.) so that a healthy forest ecosystem can be maintained with habitat to support plant and animal populations (RMP p.1, 20).	Fulfills by maintaining current trends that develop diversity slowly ( <i>EA sections 2.4.1, 2.4.5</i> ).	Fulfills by accelerating changes in some parts of some stands to develop more elements of diversity faster ( <i>EA sections 2.4.1, 2.4.5</i> ).
Provide access for timber harvest and silvicultural practices.	Partially fulfills. Would delay maintenance on feeder roads, making access for silvicultural practices more difficult. Main routes would be maintained under both alternatives. Would not preclude future maintenance for management activities.	Fulfills. Would implement maintenance on feeder roads, allowing continued access for management activities.
Reduce potential human sources of wildfire ignition and unauthorized uses (e.g. garbage dumping, unauthorized OHV use, timber theft) by controlling access.	Partially Fulfills (see map on pp 5-8) Currently 2.75 miles of road are behind working gates. The gate on Road 4-4E-30 would not be repaired. Gates would not be repaired and roads would not be blocked. Unauthorized use would continue.	Fulfills. Currently 2.75 miles of road are behind working gates. This project also provides an opportunity to block access to several road spurs where unauthorized use is taking place (EA p.16). Repairing the gate on Road 4-4E-30 would control access, reducing unauthorized use.
Reduce environmental effects associated with identified existing roads within the project area.	Does not fulfill: Replacing culverts that are not up to standards would not take place ( <i>EA sections 2.4.3</i> ).	Fulfills. Replacing culverts near D1 (Unit 7) would reduce the environmental associated with existing roads.

2. The No Action alternative was not selected because it does not meet the Purpose and Need directly, or delays the achievement of the Purpose and Need (*EA sections 2.1, 2.4.9*), as shown in *Table 1*.

## **VI. Public Involvement/ Consultation/Coordination**

**Scoping:** A description of the proposal was included in the Salem Bureau of Land Management Project Update which was mailed to more than 1070 individuals and organizations. A letter asking for scoping input on the proposal was mailed on September 4, 2002 to adjacent landowners and individuals who expressed an interest in management activities in the resource area as a whole or in this area. Letters were also sent to the Confederated Tribes of Grande Ronde; Confederated Tribes of the Warm Springs Reservation of Oregon; Federal, State, County and local government organizations; Clackamas River Water Providers and Special Interest groups.

### Comment Period and Comments:

The original EA was made available on the Internet and notices mailed to approximately thirty-six agencies, individuals and organizations on March 28, 2003. A legal notice was placed in local newspapers soliciting public input on the action from April 2 to May 2, 2003. Thirty-five comment cards and letters were received. Responses to these comments can be found in Appendix A of the original Decision Rationale.

Based on the original response, the EA was mailed to approximately thirty-seven agencies, individuals and organizations on November 1, 2005. A legal notice was placed in the Sandy Post newspaper soliciting public input on the action from November 2 to November 18, 2005. Two comments were received during the comment period for the EA. Responses to these comments can be found in DR Appendix A.

### Consultation/Coordination:

The Clear Dodger timber sale was submitted for Formal Consultation with U.S. Fish and Wildlife Service (USFWS) as provided in Section 7 of the Endangered Species Act (ESA) of 1973 (16U.S.C. 1536 (a)(2) and (a)(4) as amended).

Consultation was completed on February 27, 2003 (Biological Opinion (BO) Reference number 1-7-03-F-0008). As a result of consultation, the USFWS concluded that the FY 2003-2004 Habitat Modification Projects in the Willamette Province (including Clear Dodger) are not likely to jeopardize the continued existence of the spotted owl and is not likely to destroy or adversely modify designated critical habitat for the spotted owl (pp.46-47). The USFWS anticipates incidental take (BO p. 48) resulting from downgrading suitable northern spotted owl habitat. In the case of Clear Dodger, thinning 120 acres of suitable habitat would result in downgrading the habitat from suitable to dispersal habitat for spotted owls. Suitable habitat is downgraded when the canopy closure is reduced from 60%+ required to be considered as suitable habitat, to 40%-50% which is considered dispersal habitat.

Since the release of the original EA, an additional species, Lower Columbia River coho salmon have been listed as 'threatened' under the Endangered Species Act by NOAA Fisheries. Relative to the proposed project area, coho distribution is the same as for Lower Columbia River steelhead trout.

The project would have no effect on Lower Columbia River coho salmon for the same reasons stated in the EA that the project would have no effect on the other previously addressed ESA listed fish species, Lower Columbia River steelhead trout, Columbia River chinook salmon and Upper Willamette River chinook salmon.

Also since the release of the original EA, Critical Habitat has been designated for all of the ESA listed fish species mentioned above. The project would have no effect on designated Critical Habitat for the same reasons stated in the EA that the project would have no effect on the ESA listed fish species.

## VII. Conclusion

I have determined that change to the Finding of No Significant Impact (FONSI – October 2005) for the Clear Dodger Timber Sale is not necessary because I've considered and concur with information in the EA and FONSI. The comments on the EA were reviewed and no information was provided in the comments that lead me to believe the analysis, data or conclusions are in error or that the proposed action needs to be altered. There are no significant new circumstances or facts relevant to the proposed action or associated environmental effects that were not addressed in the EA.

Protests: The Clear Dodger timber sale will not be resold. It would be awarded to the original purchaser. In compliance with IBLA direction, the Decision will be open to formal protest after the Notice of Decision appears in the *Sandy Post* newspaper on or around *February 22, 2006*. Protests of this decision must be filed within 15 days of this notice.

Contact Person: For additional information concerning this decision, contact Carolyn Sands (503) 315-5973 or Rudy Hefter (503) 375-5671, Cascades Resource Area, Salem BLM, 1717 Fabry SE, Salem, Oregon 97306.

Approved by: \_\_\_\_\_  
Cindy Enstrom  
Cascades Resource Area Field Manager

\_\_\_\_\_  
Date

## VIII. Appendix A: Response to Public Comments Received on the Clear Dodger Projects – Reissue Environmental Assessment (EA#OR080-03-03)

Note: This section addresses comments on the Clear Dodger – Revised EA, received during the latest public comment period, which ended November 18, 2005. Comment letters were received from ONRC (11/18/06) and Bark (11/15/05). The comments, (in italics type), may have been paraphrased for clarity or conciseness or to combine similar thoughts from multiple writers, but the complete text of the comment was available to the Interdisciplinary Team (IDT) making the response. The full text of the comment letters is available in the Clear Dodger EA file.

### 1. Variable Density Thinning

*Thinning should be highly variable to create a variety of micro-sites that can support a wider variety of plants and wildlife* (11/18/05 ONRC Letter p. 1 - 9)

**Response to 1:** Thinning objectives for this project are stated in the Silvicultural prescriptions for each unit (Silvicultural Prescriptions for units A-1, B-1, B-2, B-3, B-4, B-5, C-1, D-1):

- Provide a sustainable supply of timber and other forest products.
- Achieve a balance between wood volume production, quality of wood and timber value at harvest.
- Provide habitat for a variety of organisms associated with both younger and older forests.
- Provide for important ecological functions that will maintain the forest ecosystem.
- Commercially thin managed stands to increase timber production or to achieve other management objectives.

The selected action also accomplishes some of the objectives stated for variable density thinning pages 5 and 6 of the ONRC letter to the extent possible and still meets the timber management objectives. Including:

- expanded future options for multiple-use/sustained yield in its fullest dimension
- Improved connectivity by enhancing foraging opportunities for dispersing predators
- More species-diverse and structural complexity
- Increased biocomplexity resulting from interactions of decadence, understory development, and overstory composition

ONRC provides no evidence that the proposed thinning would not accomplish several of the objectives attributed to variable density thinning.

### 2. Reasonable Range of Alternatives

- The EA does not meet the requirements of NEPA* (11/15/05 Bark letter p. 2).
- The EA does not provide an adequate Range of Alternatives* (11/15/05 Bark letter. p. 1).
- An agency must look at and discuss every reasonable alternative within the range dictated by the nature and scope of the proposed action* (11/15/05 Bark letter p. 1).

**Response to 2a-2c:** Bark expressed the opinion that the range of alternatives presented in the EA is insufficient to provide the decision maker with a reasoned choice. Bark did not, however, offer any suggested alternatives that meet the purpose and need of the project. Alternatives were considered that included regeneration harvest, but the IDT concluded it was not an appropriate action at this time. An alternative was considered that would have prescribed no new road construction, but the IDT felt that the decision not to construct new roads was within the purview of the decision maker (a fact verified by the decision to eliminate 90% of the road construction considered in the original Clear Dodger proposal). Likewise, the decision maker could have opted to thin fewer acres, or to remove fewer trees. One action alternative that was not analyzed, and would have met the purpose and need of the project, would have been to harvest more trees or more acres than described in the EA.

### 3. Cumulative Effects (11/15/05 Bark letter pp. 2-3)

- a. *Cumulative impacts have not been adequately analyzed given past, present and likely future management conditions of this sale area in relation to surrounding land (11/15/05 Bark letter p. 1, reiterated p. 2)*
- b. *Neither current nor future BLM projects on associated lands were discussed or sufficiently analyzed in the EA. (11/15/05 Bark letter p. 2)*
- c. *Even immediate effects, such as the impact of thinning next to adjacent Riparian Reserves, were not analyzed adequately (11/15/05 Bark letter p. 2).*
- d. *The cumulative impacts for soil, water, sensitive species and overall forest health are dismissed (11/15/05 Bark letter p. 3).*
- e. *...This will have a cumulative impact on the area, and a thorough EIS needs to be done for the area...A thorough cumulative impacts assessment using the best available science, as required by NEPA that includes past, present and future conditions needs to be conducted (11/15/05 Bark letter p. 3).*
- f. *The Water Available for Runoff (WAR) cumulative impacts analysis does not adequately assess the cumulative impacts on the area (11/15/05 Bark letter p. 3).*

**Response to 3a-3f:** Bark has not provided evidence showing the cumulative effects analysis is inadequate. Every element of the environment was evaluated for the potential for cumulative effects. This evaluation was recorded in EA Tables 7 and 8 (EA pp. 25-27). Those elements with the potential for cumulative effects were shown in EA Table 9 (EA p. 28) along with identification of past, present and foreseeable future projects. The following criterion was used for identifying foreseeable future projects that could contribute to cumulative effects: Will there be an overlap in effects in time and space between the Clear Dodger sale and a foreseeable future action? We determined the length of time and geographic area the project would affect the affected element and then looked at planned projects to see if they happened at the same time in the same place.

Bark asks about the Guard, Unguard, Clear, and South Fork thinning sales (Forest Service) and BLM's Artful Dodger timber sale. With the exception of one unit in the Guard timber sale, the Guard, UnGuard, Clear and South Fork sales are thinning projects (Personal Correspondence: Jim Rodan Estacada Ranger District).

The original WAR analysis included recent (i.e., w/in the last ten years) harvest activity on public lands in the seventh field watersheds utilized for the analysis (see page 5, Cumulative Effects Analysis of Peak Flow Events for the Clear Dodger Proposal, 2/13/03). Artful Dodger units, as well as some units from the Mount Hood National Forest Guard and Unguard sales, were accounted for under current condition of the watershed.

“On BLM lands actions are easier to predict. Recent harvests (i.e., Artful Dodger) were incorporated under “current condition” in the watershed. Clear Dodger is the only proposed action in these watersheds that is likely to be completed in this decade and thus two alternatives were analyzed: **No Action**, what would occur even if the BLM does not complete the proposal; and, the **Proposed Action** (commercial thinning of 161 acres) in combination with other likely actions, private and public, in the watershed. In the WAR analysis, thinning of forest is assumed to move vegetative cover conditions from hydrologic maturity to intermediate.

The Mount Hood National Forest also plans forest harvest in the area. Units 1 and 6 of the Unguard sale and Unit 2 of the Guard sale either have or will be harvested in T5S R5E, section 19 of the drainage, adjacent to this proposal. Since these units have already been sold, they were included in the analysis under “current condition” along with the Artful Dodger sale.

Note that there are additional proposed harvest activities on public lands in the Upper Clear Creek *sub-watershed* that are not analyzed here because they are outside of the 7<sup>th</sup> Field *drainages* utilized in this analysis.” (Cumulative Effects Analysis p. 5)

The Hydrologist checked the WAR analysis with regard to the Guard, Unguard, Clear and South Fork thinning sales. The South Fork thinning was not within the WAR analysis area (Cumulative Effects Analysis p. 1). The following units were within the WAR Analysis area: Guard units 2 and 3, Clear Units 1 and 7, Unguard units 1 and 6. As stated in the original Cumulative effects analysis report Unguard Units 1 and 6 and Guard unit 2 was included in the original analysis. Three thinning units (Clear units 1 and 7, and Guard Sale unit 3 – approximately 120 thinning acres) were not accounted for in the original WAR analysis. The addition of the USFS units will slightly increase the existing effect under the WAR current condition scenario but would not alter the conclusion of the analysis (Hawe Memo 1/25/06).

The WAR analysis is not the only cumulative effects analysis documented in the EA. WAR addresses the cumulative effects with regard to the potential for peak flows. Other hydrological cumulative effects are described in the Hydrology section of the EA (EA pp. 38, 40-41). The following EA sections describe cumulative effects associated with the Clear Dodger timber sale. Conversely, when there are no cumulative effects to a resource the reasons why are also described in these sections: EA Table 9: EA p. 28; Fisheries: p.45, Soils: EA p. 34, Wildlife: EA pp. 54-55.

- g. *BLM Management practices are supposed to be designed to maintain a variety of stand age and size classes in the vicinity...Clear Dodger sale in current design is not in the spirit of this directive (11/15/05 Bark letter p. 2).*

**Response to 3g:** A variety of stand ages and size classes would be maintained after thinning is completed. Thinning would result in leaving the larger trees while removing the smaller trees. The age of the stand would not change as a result of the thinning. There would be fewer smaller trees within the thinned areas, but that age class would be retained within the Riparian Reserve land use allocation. Bark does not explain why the current design of the Clear Dodger timber sale is not in the spirit of this directive.

#### 4. Aquatic Conservation Strategy (11/15/05 Bark letter pp. 3-6)

- a. *ACS effects determination in the EA are based on speculative and or unsubstantiated actions that underestimate the potential seriousness of the impacts of these actions. (11/15/05 Bark letter p.3)*
- b. *The EA fails to disclose how the increased peak flows will maintain and restore the instream flow regime within these degraded basins as required by the ACS. (11/15/05 Bark letter p. 4)*
- c. *The project does not meet ACS objectives....it is not substantiated that it will maintain or restore natural sediment regimes, in-stream flows, species and plant compositions....it puts at risk streams, fish species, soil composition, plant, animal, fungi, and sensitive species) (11/15/05 Bark letter p. 5)*
- d. *The EA fails to demonstrate that the objectives of the ACS will be attained and statements regarding attainment are not scientifically substantiated. (11/15/05 Bark letter p. 5)*
- e. *Statements regarding ACS objectives for sediment are also unsubstantiated and in-conflict with available scientific information. (11/15/05 Bark letter p. 6).*
- f. *The effects analysis, which is also based on assumptions about the function of the RR as buffers and the impacts of the Restoration Project yet to be completed is erroneous and improper. Effects analysis based on speculative activities are inadequate for full disclosure (11/15/05 Bark letter p. 6).*
- g. *Clear Dodger timber sale EA does not demonstrate that the objectives of the ACS will be achieved, and therefore is not in compliance with the NWFP (11/15/05 Bark letter p. 6).*
- h. *Supplemental EA or a thorough EIS is needed to clearly demonstrate that ACS objectives will be achieved .....analysis be conducted by employing scientifically credible analytical techniques (11/15/05 Bark letter p. 6) (link to NEPA adequacy from theme above on range of alts).*

**Response to 4a – 4h:** Project compliance with the nine Aquatic Conservation Strategy objectives is summarized in EA Sec. 4.2, Table 20. As described in the NWFP; “Complying with the Aquatic Conservation Strategy objectives means that an agency must manage the riparian-dependent resources to maintain the existing condition or implement actions to restore conditions. The baseline from which to assess maintaining or restoring the condition is developed through a watershed analysis.” Watershed analysis (WA) has been completed for all affected watersheds within the project area. These WAs identify general and specific limitations to watershed structure and function, and include recommendations to protect and enhance these structures and functions. The proposed actions incorporate these recommendations in the project design features.

Further, the *Final Supplemental Environmental Impact Statement, Clarification of Language in the 1994 Record of Decision for the Northwest Forest Plan National Forests and Bureau of Land Management Districts Within the Range of the Northern Spotted Owl*, October 2003 (ACS/FSEIS), makes it clear that the proper scales for Federal land managers to evaluate progress toward achievement of ACS objectives are the watershed and broader scales, and that failing to implement projects due to short-term adverse effects may “frustrate the achievement of ACS goals” (ACS/FEIS p. 2). The Clear Dodger EA differentiates short-term from long term effects for applicable resources, and states on EA p. 69-71, Table 20, why the proposed actions would not prevent attainment of ACS objectives at the project level.

BARK does not define the specific “*speculative and or unsubstantiated actions*” that it refers to, nor does it offer an alternative site-specific estimate of the seriousness of impacts that would result from the proposed actions. BARK also does not describe the specific risks to *streams, fish species, soil composition, plant, animal, fungi, and sensitive species* that it anticipates specific to preventing attainment of the nine ACS objectives. The Clear Dodger EA contains a summary of specialist’s reports (available in the project file) for the affected resources which include the details of the analytical process that was employed, and/or the literature references used to reach supported conclusions. Bark offers no specific challenges to any of these analyses.

The Hydrology Report (p. 11) in the Clear Dodger project file contains a general statement and a specific reference which substantiates the effectiveness of riparian buffer zones for trapping sediment before it can enter a water. Bark does not provide any specific reference to support its contention that “*Statements regarding ACS objectives for sediment are ... in-conflict with available scientific information*”, nor are any specific statements disputed.

### Hydrological Effects

- i. *The EA fails to disclose how the increased peak flows produced by Clear Dodger timber sale will maintain and restore the instream flow regime within these degraded basins as required by the Aquatic Conservation Strategy (11/15/05 Bark letter p. 4 ph. 1).*

**Response to 4i:** The significance of the estimated changes in peak flows must be related to the likelihood of delivering adverse impacts to public resources” (C-37, “Effects of Peak Flow Changes on Public Resources”). From page 39 of the EA:

WAR values above the 10% level imply the possibility of adverse effects to the aquatic ecosystem and results in a sensitivity rating of “indeterminate”. This rating points only to the possibility of impacts to the aquatic ecosystem in these watersheds at some point during the ten-year analysis period, not the certainty of such impacts. However, when these possible peak flows are assessed in a context that evaluates actual risks to resources, it is likely that stream channels in the project area that might be sensitive to increases in peak flows have already adjusted to these increases.

If increased peak flows have affected stream channels in these watersheds, it is not apparent in those channels observed in the project area (as indicated earlier in this analysis, channels on BLM lands in the sale area are in functional condition).

Since public lands in these watersheds are less than 20% of the area, a 0.4% increase in unusual storm event peak flows over current conditions is highly unlikely to result in any adverse impact to public resources.

- j. *The EA also fails to acknowledge the wide array of scientific information that details the impacts of logging on stream systems, including the relationship between increased flows, unstable channels and increased sedimentation. Sediment impacts associated with increased peak flows are not disclosed (11/15/05 Bark letter p. 4, paragraph 1).*

**Response to 4j:** Impacts to stream systems associated with logging were summarized in the hydrology section of the EA (see pages 37-38) and discussed in greater detail in the supplemental hydrology report (see hydrology report, pages 9-12). The hydrology report disclosed (page 10) potential sediment impacts associated with peak flows:

- “Stream-bank erosion and channel cutting may be accelerated by reductions in channel roughness or resistance, **increases in stream energy.....**”
- “**Increases in stream energy result from increases in runoff (i.e., increased peak flows.....)**”

Road Densities

- k. *What is the extension of the drainage network caused by roads in the Clear Dodger planning area? (11/15/05 Bark letter p. 6)*

**Response to 4K:** The extension of the drainage network is described in the EA pp. 36, 37, 44.

- l. *Explain why the areas under consideration are not within or tributary to the Clackamas River (because B3, B4, and B5 are all adjacent to tribs into Clackamas River) (11/15/05 Bark letter p. 6).*

**Response to 4l:** The EA did not say that the area was not within or tributary to the Clackamas River. The EA (p. 9) stated the following:

“The Clear Dodger projects are located on BLM-managed lands in Sections 13, 23, 24 and 25, Township 4 South, Range 4 East, and section 30 of Township 4 South Range 5 East, Willamette Meridian. The project area is approximately seven miles southeast of Estacada, Oregon in Clackamas County, Oregon, on the Hillockburn Road. The project area lies within the watersheds described in *Table 1*, below. The project area is shown on the *Clear Dodger Vicinity Map*.

**Table 2:** *Watersheds containing the Project Area*

<b>5<sup>th</sup> Field Watershed</b>	<b>6<sup>th</sup> Field Watershed*</b>	<b>T.S. R.E. Section</b>	<b>Watershed Analysis Covering The Area</b>
Lower Clackamas River	Middle Clear Creek	T.4 S. R. 4E. Section 13, 23, 24	<i>Upper Clear Creek Watershed Analysis, 1995</i>
	Upper Clear Creek	T.4 S. R. 4E. 23, 24 and 25; T.4 S. R. 5E. 30	<i>Clear and Foster Creek Watershed Analysis, 2002</i>

<i>5<sup>th</sup> Field Watershed</i>	<i>6<sup>th</sup> Field Watershed*</i>	<i>T.S. R.E. Section</i>	<i>Watershed Analysis Covering The Area</i>
Middle Clackamas River	Lower Clackamas River Tributary	T.4 S. R. 4E. Section 13	<i>Lower Clackamas Watershed Analysis, 1996</i>

*\* 6<sup>th</sup> field watersheds lie within 5<sup>th</sup> field watersheds*

**Key Watersheds:** The *Clackamas River Corridor* portion of the *Lower Clackamas River Tributary* 6<sup>th</sup> field watershed has been designated as a key watershed (RMP p. 6). Areas under consideration for this project are not within or tributary to the Clackamas River corridor.”

The Clackamas River corridor is upstream from the project area.

## 5. Fisheries

- a. *EA fails to disclose the effects of sedimentation runoff from these units which are located on top of a ridge just above Riparian Reserves (11/15/05 Bark letter p. 7).*

**Response 5a:** Section 2.4.4.1, p. 42, states that retention of Riparian Reserves will be adequate to protect the aquatic and riparian resources downstream in Clear Creek and in the Clackamas River. The same paragraph, and Section 2.4.4.1, p. 45 references project design features found in Section 2.2.2.2, p.18 that state Riparian Reserve widths (minimum of 180 feet). Intact Riparian Reserves of 180 feet (200 feet for Unit B-3 are considered more than adequate to prevent sedimentation runoff from Units B-2, B-3 and B-4 from entering the streams that flow to North Fork Reservoir, especially considering that the units are nearly flat.

Section 2.4.4.1, p. 45 also states that if effects to streams were to occur, they would have no effect on ESA listed fish species found in the reservoir or downstream due to the buffering effect of the reservoir. The reservoir acts as a sediment sink where sediment settles out onto the bed of the reservoir. The main detrimental effect of sediment on salmonid fishes is siltation of spawning gravels when eggs or alevins are present. Steelhead trout and chinook salmon do not spawn in reservoir habitat.

- b. *“There was also water running down Road 4-4E-241 [24.1] between units B3 and B4 on Monday, November 14<sup>th</sup>. While the EA noted the precautions to be taken with new road creation, it did not address the use of this road, which has been closed for years. Allowing heavy machinery on this surface is bound to release sediment into the two streams that are only 50 feet from this roadway” (11/15/05 Bark letter p. 7).*

**Response to 5b:** The EA states on page 18 that “Hauling would be restricted to conditions that would not contribute to erosion or sedimentation of streams”. The EA states on page 43 “Timber haul would be conducted during dry weather conditions to prevent road related sediment from entering stream channels.” No log trucks or heavy machinery would be allowed on the road when water is flowing on it.

Although the EA does not specifically mention Road 4-4E-24.1 where road work is discussed as part of the proposed action on pages 15 and 16, it does state that “Approximately 1.5 miles of existing roads would be reshaped and waterbarred to stabilize drainage patterns.” The streams in question do not cross the road; they originate well below the road. Terrain below the road in the vicinity of the streams is densely vegetated and stable with minimal slope. Routing of surface water off of the road poses no risk of introducing road sediment into the streams.

- c. *The EA also suggests that the proposed road construction would have no impacts on fish or aquatic habitat, but no substantial scientific evidence is provided to support that statement (11/15/05 Bark letter p. 7).*

**Response to 5c:** As stated on page 15 of the EA, the two new road segments proposed for construction total approximately 0.05 mile (less than 275 feet). The EA states on page 43 that the road locations are flat and have no hydrologic connections. ‘No hydrologic connections’ means that there are no stream crossings associated with the new roads and that the new roads are not in close proximity to any streams. Construction of the two proposed road segments could not have any impacts on fish or aquatic habitat because no aquatic habitat exists near the proposed new road locations and the topography at the proposed road locations is too flat for impacts to be transferred downslope. Refer to *Clear Dodger Project Unit Map, Township 4 South, Range 4 East, Section 23* and *Clear Dodger Project Unit Map, Township 4 South, Range 4 East, Sections 24 and 25* for locations of the proposed road construction relative to locations of streams.

- d. *Explain why consultation with NOAA is not required for this proposal (11/15/05 Bark letter p.7).*

**Response to 5d:** Consultation with NOAA is required for projects that “may affect” ESA listed fish species. A determination has been made that this proposed project would have no effect on the ESA listed fish species found in the Clear Creek and Middle Clackamas River watersheds for reasons described on pages 43-45 and page 73 of the EA, as well as in the previous paragraphs of this response to comments.

## 6. Fire Risk and Blow Down

*The proposed thins will increase the risk of fire and blow down (11/15/05 Bark letter p.8).*

**Response to 6:** It is true that the increase in slash created by the proposed thinning would result in a higher hazard of surface fire on the thinned sites following logging. The fire hazard would be greatest during the first year “red needle stage”. Fire risk would be reduced by piling and burning debris from landings, and piling, burning, mulching or moving slash along open roads (EA pp. 59-60). Thinning from below (removing ladder fuels and decreasing tree crown density) is a fuel treatment strategy as it reduces canopy, ladder and surface fuels, thereby reducing both the intensity and severity of potential wildfires (Graham, et al, 2004).

## 7. Wildlife and Botany

- a. *The EA fails to adequately analyze the impact of this sale on wildlife and to adequately present management plans for designated federally listed, Survey and Manage and Bureau Sensitive species (11/15/05 Bark letter p. 8).*
- b. *The BLM should survey for red tree voles and make extra efforts to manage in a way that benefits spotted owls and their prey species (11/18/05 ONRC Letter p. 1).*

**Response to 7a-7b:** Bark does not present specific points which substantiate its claim that the EA “fails to adequately analyze the impact of this sale on wildlife” as described in EA Sec. 2.4.5.1. The Clear Dodger proposal is in compliance with all regulatory and policy requirements with respect to federally listed, Survey and Manage and Bureau Sensitive species. Project-level management plans are not a requirement of the NEPA analysis process for species in these categories.

For federally listed species (northern spotted owl), the project was submitted for Formal Consultation with U.S. Fish and Wildlife Service, a Biological Opinion (B.O.) was obtained, and the Terms and Conditions of the B.O. were incorporated into the project design features.

For Survey and Manage species, all required surveys were completed (mollusks and red tree voles). No Survey and Manage mollusk species on the most current Survey and Manage list (*2003 Annual Species summary*) for Cascades Resource Area were found, nor were any active or inactive *red tree vole* nests discovered (EA p.48 and 49) (DR Appendix B). Therefore, no additional specific project design features were applied for these species.

Required Clearances for all Bureau Sensitive species suspected or documented to occur within the project area were conducted, and the results were reported in EA Sec. 2.4.5 (Affected Environment). It was determined that one Bureau Sensitive species (Oregon slender salamander) is likely to occur in the project area (EA p. 48).

An analysis of effects to the species is presented in EA p.52, and it has been determined that the project would not contribute to the need to list the species (EA p. 53), as required by Oregon-Washington Special Status species Policy (IM No. OR-91-57).

## 8. Thinning Older Stands

- a. *The EA should have had another alternative that considered deferring harvest of the older stands. (11/18/05 ONRC Letter p. 1, 8)*

**Response to 8a:** An alternative deferring the harvest of the older stands would not meet that portion of the purpose and need to “Develop timber sales that can be successfully offered to the market place; achieve a desirable balance between wood volume production, quality of wood, and timber value at harvest (RMP p. D-3); and provide a sustainable supply of timber as described in the RMP (p. 1, 46, 47) (EA p. 13).

These stands are not typical of older stand types for the following reasons:

- These stands are still growing (i.e. have not reached culmination of mean annual increment); and
- Habitat elements, typical of older forest, are missing or are limited in these stands. The following examples are found on page 46 of the EA:
  - “live residual old-growth trees are in low numbers, and are present in only two units in the project area (A1 (Units 5 & 9) and D1 (Unit 7))
  - "No snags are present within units B1 (Unit 4), B4 (Unit 8), and B5 (Unit 1). Decay class 1 and 2 snags are present in A1 (Units 5 & 9), B2 (Unit 3), B3 (Unit 2), and C1 (unit 6). These are generally smaller snags, usually slightly smaller than the mean DBH of the existing live trees, and would not provide CWD that would meet the size standards described in the NWFP and the RMP, when they fall to the forest floor. The largest snags present are in decay class 4 and 5, and are scarce throughout the units (0-6 per acre). In the near-term (less than three decades), there is likely to be a deficit of large snags in stands throughout the project area.
  - Coarse Woody Debris (CWD): CWD that would meet RMP management direction (RMP p. 21) is currently lacking in all units. Down woody material (in pieces at least 5” thick and 8’ long) in decay class 3, 4, and 5 is present throughout the project area (see *Table 13*).”

Growth rates of the residual trees remaining are expected to increase after thinning. This would result in larger, healthier trees with fewer stems per acre. The total net yield for the site would increase and the final harvest volume would have larger and higher quality timber. The wider spacing of the residual trees would result in increased growth of understory trees and shrubs, which would provide a richer, more diverse habitat for wildlife (EA p 30).

- b. *The EA should have had a better discussion (in light of recent research results) of the anticipated impacts and benefits of thinning on the different age classes of trees in the different harvest units (11/18/05 ONRC Letter p. 8).*

**Response to 8b:** ONRC does not specify how the discussion of the anticipated impacts and benefits of thinning on different age classes is not adequate. Descriptions of stand conditions are described in the EA (pp. 29, 46-49). Effects of thinning on these stand conditions are described in the EA pp. 30-31, 49-56).

## 9. Northern Spotted Owl

- a. *“Stands that have been identified as late successional stands in the effected environment that would remain late successional stands after thinning” ... Yet when it discusses these stands in relation to the spotted owl, it notes that these stands will be degraded from suitable habitat to dispersal habitat. Stands will remain late successional after thinning. Explain this contradiction. (11/15/05 Bark letter p. 2)*

**Response to 9a:** Forest successional stage and northern spotted owl habitat categories are determined independently of one another. The term “late-successional” refers to forests which are in a mature or old-growth stage, as defined in FEMAT (p. IX-18). This stage is described as a range of age classes. Mature forests are generally 80-100 years old and less than 180-200 years old; old growth forests are older than 180-200 years old. Habitat categories for northern spotted owls are determined independent of the stand’s age, and rely on other factors (such as average canopy closure) to determine that activities for northern spotted owl that are likely to be supported. As described in the FEMAT glossary (p. IX-20), “mature forests are not always spotted owl habitat, and spotted owl habitat is not always mature forest.”

- b. *The EA provides no plan for mitigation of owl habitat (11/15/05 Bark letter p. 8).*

**Response to 9b:** Bark does not specify which regulation or policy this would violate, or, how “mitigation of owl habitat” applies to project design features or effects analysis. The project is in compliance with regulations and policies with regard to northern spotted owl, and incorporates the Terms and Conditions of the B.O. that was received from USFWS for the project. See responses to “9e -9f.”

- c. *What are protocols for owl surveys (11/15/05 Bark letter p. 8)?*

**Response to 9c:** The BLM uses the Protocol for Surveying Proposed Management Activities that may Impact Northern Spotted Owls, endorsed By The U.S. Fish And Wildlife Service, March 7, 1991, Revised - March 17, 1992.  
[www.fws.gov/oregonfwo/EndSpp/Documents/Owl%20Protocol.doc](http://www.fws.gov/oregonfwo/EndSpp/Documents/Owl%20Protocol.doc) Accessed 01/13/2006.

- d. *The EA does not comply with the management requirement to retain 100 acres of the best NSO habitat as close as possible to a nest site or owl activity center for all known spotted owl activity centers. (11/15/05 Bark letter p. 8)*

**Response to 9d:** The Salem RMP, p. 22 states: “Retain 100 acres of the best northern spotted owl habitat as close as possible to a nest site or owl activity center for all known (as of January 1, 1994) spotted owl activity centers.” The RMP guidance quoted by Bark does not apply to the Clear Dodger Project because there are no spotted owl nest sites or activity centers in the vicinity of the project.

- e. *The EA does not discuss whether incidental takes will occur and if there was a Biological Evaluation prepared which would authorize such takes (11/15/05 Bark letter p. 8)*  
f. *May affect, likely to adversely effect – how this means that BLM can go ahead with project. Taking habitat away from a threatened species is illegal (11/15/05 Bark letter p. 9).*

**Response to 9e-9f:** A Biological Assessment was prepared for inclusion in the Formal Consultation package submitted to the U.S. Fish and Wildlife Service (USFWS) for the Willamette Province (EA page vii). The term “Biological Evaluation” does not apply to this process. A Biological Opinion (Formal and informal consultation on Fiscal Year 2003-2004 routine habitat modification projects within the Willamette Province [FWS reference: 1-7-03-F-0008]) was issued by the USFWS for the project, which includes specific terms and conditions by which disturbance and habitat modification can occur for all projects included in the consultation.

Incidental take is also authorized by this document. The Clear Dodger project is in compliance with the terms and conditions of the Biological Opinion. In the Biological Opinion, the USFWS assumes as a worst case scenario that all unsurveyed suitable habitat is occupied based on the dependence of spotted owls on mature/old-growth habitat. As a result, the USFWS anticipates the incidental take of all spotted owl pairs or resident singles associated with the regeneration harvest of 1,162 acres, the heavy thinning of 3,486 acres and the removal of 2,263 individual trees under the FY2003-2004 program of habitat modifying activities in the Willamette Province, as described in the Description of the Proposed Action section, table 8 and Appendices A through D of the biological opinion (BO p. 47).

In the case of Clear Dodger, the proposal is thinning 120 acres of suitable habitat, which results in downgrading the habitat from suitable to dispersal habitat for spotted owls. In thinnings like Clear Dodger, suitable habitat is downgraded when the canopy closure is reduced from 60%+ required to be considered as suitable habitat, to 40%-50% which is considered dispersal habitat.

- g. *Comply w/ ESA by formally reinitiating consultation with the FWS on the effects of this project on spotted owl recovery (Gifford Pinchot task force) (11/15/05 Bark letter p.9)*

**Response to 9g:** Recent rulings related to *Gifford Pinchot Task Force vs. U.S. Fish and Wildlife Service* (FWS) have determined that the Endangered Species Act's (ESA) definition of Critical Habitat indicates that the purpose of Critical Habitat is to contribute to the species' conservation, and thus recovery. This court case cited by Bark would apply only to projects which modify northern spotted owl Critical Habitat. No northern spotted owl Critical Habitat would be affected by the project as proposed (EA Section 2.4.5, page 48).

The lawsuit cited a number of specific Biological Opinions issued by the USFWS. The BO which addresses the Clear Dodger Project, *Formal and informal consultation on Fiscal Year 2003-2004 routine habitat modification projects within the Willamette Province* [FWS reference: 1-7-03-F-0008] (EA page vii), was not included in this lawsuit. The project is in compliance with the Endangered Species Act and with all terms and conditions specified in this Biological Opinion.

The EA states that the recent Scientific Evaluation of the Northern Spotted Owl was considered in the analysis. (EA page 12). The reports did not find a direct correlation between habitat conditions and changes in NSO populations in the portion of the range affected by the Clear Dodger project, and they were inconclusive as to the cause of the declines identified. This new information has not been found to be in conflict with the NWFP or the RMP, and thus, re-initiation of consultation is not necessary.

## 10. Bureau Sensitive Species

- a. *The EA does not state whether any surveys were performed in prep for this project (11/15/05 Bark letter p. 9).*

**Response to 10a:** Surveys (species-oriented inventory) for Bureau Sensitive species are optional under the Oregon-Washington Special Status species Policy (IM No. OR-91-57, 1990). None were conducted for the Clear Dodger project.

As part of the required Clearance for the project, habitat was evaluated, and based on widespread occurrence in similar habitat throughout the Cascades Resource area, it was determined that Oregon slender salamander is likely to occur within the project area. Additional surveys were not necessary to determine the likelihood of habitat occupancy, and no management recommendations exist which would prescribe site-specific design features if new sites were located. Occupancy was presumed for the purposes of effects analysis.

- b. *Fails to disclose the status of the Oregon Slender Salamander or other plants, animal or condition in the immediately adjacent areas (11/15/05 Bark letter p. 10).*

**Response to 10b:** The EA states several assumptions with regard to habitat conditions for snag and CWD-associated species on private industrial forest lands that were used in assessing cumulative effects (EA pages 54-55).

- c. *The impacts of the proposed action on these sensitive species (clouded salamander, red-legged frog, along with numerous species of bats, all of which are classified as sensitive species and depend on coarse woody debris, snags, and a damp forest floor) are never identified or analyzed in the EA, as required by the Resource Management Plan (RMP, 29) (11/15/05 Bark letter p. 10).*

**Response to 10c:** Bark apparently assumes that clouded salamander, red-legged frog, and “numerous species of bats” are Bureau Sensitive or Bureau Assessment Species. Clouded salamander and red-legged frog are Bureau Tracking Species on the most current list, and are not considered to have “special status species” for management purposes (IM #OR-91-57).

There are two bat species that have Bureau Assessment status and one which has Bureau Sensitive status. One of the Bureau Assessment species (pallid bat) does not occur in the project area, and the other two (Townsend’s big-eared bat and fringed myotis) are associated with buildings, mines and cliff/cave habitat which is not within any of the Clear Dodger project units. No specific concerns for these species were presented in public scoping.

- d. *It (the EA) neglects the important fact of moisture to the survival of amphibians (in reference to the Special Status species Oregon slender salamander) and the fact that thinning these units will bring increased sunlight and wind into these areas that has a drying effect on downed wood. (11/15/05 Bark letter p. 10).*

**Response to 10d:** The EA states that surveys conducted elsewhere in the Cascades Resource Area indicate that Oregon slender salamander has been able to persist at sites which were subjected to regeneration harvest where sufficient quantities of CWD were retained at the site (EA page 52). Based on this information, the species would be expected to persist through thinning operations at sites within stands after thinning is completed.

The EA also acknowledges that some microhabitat drying would occur at the forest floor as canopies are opened-up (EA p. 52), but that this would be minimal due to the high green tree retention after thinning. As canopies close (10 to 20 years), the effects of microhabitat drying would decrease.

Since no studies have been conducted which could assist in quantifying effects from forest canopy reduction to Oregon slender salamander or any other amphibian species, none was cited in the EA. In addition, unthinned Riparian Reserves would provide areas within the project area in which microclimate would not change much, if at all (EA page 52).

Bark does not describe or substantiate any alternate outcome for any amphibians or other forest floor-associated species as a result of thinning and the limited microhabitat drying that would result from thinning.

- e. *Further analysis of the effects of this sale on the population of amphibians, bats, and other old-growth dependent species such as Pileated woodpeckers, northern goshawk, bald eagles, pine martens and red tree voles is necessary. In addition, more feasible mitigation measures, with concrete analysis of their success, should be considered for the short-term viability of the species (11/15/05 Bark letter p. 10).*

**Response to 10e:** Bark does not identify the specific effects to species which it identifies as “old-growth dependent” that should be analyzed. All amphibians, birds, mammals (including bats) and Special Status invertebrates that are known or likely to occur in the Clear Dodger project area were addressed in the EA. Bark also does not identify which specific “feasible mitigation measures” should be considered by BLM, or, what a “concrete analysis” would look like that would describe anticipated effects from thinning.

## 11. Survey & Manage Species

- a. *Another Special Status Species cited is *Cetrelia cetrarioide*. The BA notes that one species was found and is no longer within the boundaries. We are curious if any additional surveys were performed to see if the lichen is present in any other units? (11/15/05 Bark letter p. 10).*

**Response to 11a:** Comprehensive surveys for lichens, with an emphasis on S&M and Special Status Species, were conducted at each proposed project site on one of the following dates, July 6, 10, 11, 12, 13, and 17 of 2000. The lichen *Cetrelia cetrarioide* (S&M E, currently Bureau Tracking) was identified during the surveys of units A-2, B-4 and C-1. This lichen is generally found in riparian areas, as was the case in the project area. The three areas where *Cetrelia cetrarioide* was found have been removed from the proposed project area protecting both the lichen and its habitat.

- b. *On Monday, November 14 Bark conducted surveys in unit B2 and found a *Ramaria araiospora* just north, northwest of the southeast corner of the unit. There was a flag in the area that read GPS PT R040 I 20W. We flagged from this point with white flags heading north to the *Ramaria* (11/15/05 Bark letter p. 11).*
- c. *The EA states that “no adverse effects to identified Survey and Manage species is anticipated due to the protection buffers,” The chart below specifies that a 50 feet protection buffers has been placed around this site. (EA 31). So either, this is a newfound species that needs to be investigated or these buffers have not been created as the EA suggests (11/15/05 Bark letter p. 11).*

**Response to 11b-11c:** All fungi surveys were conducted in the fall of 2000 to S&M fungi survey protocol in place at that time (*1994 FSEIS, 1995 ROD*). Protection buffers were placed on all S&M fungi sites found within the boundaries of the Clear Dodger TS during these surveys. Once the site is identified by BLM personnel or contracted fungi specialists and verified by the BLM, it is considered a “known site” and “known sites” are protected under current management direction. New sites of listed fungi species that are found by the public will not be considered as “known sites” for the following reasons. Collection protocol, especially as it relates to fungi species, has to have been followed for proper identification. Species improperly collected, sites improperly marked, and identifications made by persons or organizations not approved by the BLM Oregon State Office, will not be accepted as “known sites”.

- d. *The EA now simply states that all mollusk surveys were performed and offers nothing in regard to the surveys finding (11/15/05 Bark letter p. 10).*
- e. EA does not state when S&M surveys were performed or how many surveys were conducted (11/15/05 Bark letter p. 11).
- f. *Fails to adequately survey for sensitive and listed species and therefore lacks the necessary information to support the proposed action for the Clear Dodger timber sale (11/15/05 Bark letter p. 11).*

**Response to 11d-11f:**

- **Wildlife:** See response to 7a-7b. As stated on EA p. 48, surveys for mollusks were conducted in 1999 and 2000 using the Survey Protocol for Survey and Manage Terrestrial Mollusk Species, Version 2.0(1997). The details and results of the surveys are available in the project file. The EA does not enumerate all species which were found in the course of Survey and Manage mollusk species surveys, nor is this required. As stated on EA p. 78, Oregon Megomphix (a snail) was found during surveys, but was removed from the most current Survey and Manage list (2003) after surveys were conducted. Seventeen sites were located during surveys, and these sites were buffered within proposed units. Though not required, these buffers remain intact (see *Unit Maps* in EA section 2.5.3). Population estimates are not required, nor are they feasible to acquire for the purposes of project-level analysis. (DR Appendix B).
  - **Botany:** The EA states that all surveys were conducted to protocol (EA p. 30). Comprehensive surveys for vascular plants, lichens and bryophytes, with an emphasis on S&M and Special Status Species, were conducted on July 6,10,11,12,13,17 of 2000, and fall fungi surveys looking for targeted S&M fungi species were conducted during the weeks of Nov. 20-25, Dec. 4-9 and Dec. 17-23, 2000. Survey results are described in the EA (p. 30), and the Botany report.
- g. *The agency at minimum needs to comply with the 2001 Survey and Manage Record of Decision, which is the law. Such monitoring is required under NFMA, and NEPA requires the agency to use only high quality science and to obtain data when it is missing yet necessary to make an informed decision. 36 C.F.R. § 219.27(a)(6); 40 C.F.R. § 1503.24 (scientific accuracy), I 502.22 (incomplete or unavailable information). Has the agency completed surveys in accordance with the 2001 Record of Decision? (11/15/05 Bark letter p. 11).*

**Response to 11g:** All surveys conducted in 1999 and 2000 on the Clear Dodger project area are in full and complete compliance with the 2001 Survey and Manage FSEIS and ROD, as modified by the 2003 Annual Species Review (ASR). Therefore, the project is in compliance with Judge Marsha Pechman's January, 2006 ruling on the 2004 Record of Decision for Survey and Manage Standards and Guidelines (DR Appendix B and C).

## 12. Other Species

- a. *The EA does not discuss the occurrence of cavity nesting birds and what, if any, mitigation measures would be implemented to protect their habitat. More info about composition and amount of cavity nesters in the units is necessary to establish if # of leave snags per acre would be sufficient (11/15/05 Bark letter p. 11).*

**Response to 12a:** The EA addresses habitat for cavity nesting birds and the types of snags that are utilized as nesting habitat in Section 2.4.5, page 47. Effects to these species are described in EA Section 2.4.5.1, page 50. The EA also describes Design Features such as retaining snags and CWD and topping/girdling to create more such material (EA pp. 16, 18-19, 50).

- b. *Impacts of the loss of 143 acres of good thermal cover for wildlife, specifically deer and elk, are not discussed in the EA. (11/15/05 Bark letter p. 11).*

**Response to 12b:** Cover for deer and elk is not addressed in the EA. However, no cover would actually be lost. In the short term, thinning would only change hiding/thermal cover to hiding cover. No new forage areas would be created, and no optimal cover would be altered. Cover/forage area edge would not increase or decrease.

## 13. Snags and Legacy Features

- a. *Thinning tends to "capture mortality" but mortality is a beneficial feature of developing forest habitat, so the BLM should manage for decadence (and not just in the Riparian Reserve) (11/18/05 ONRC Letter p. 1)*

**Response to 13a:** One of the objectives of this project is to retain elements that provide ecosystem diversity (snags, old growth trees, etc.) so that a healthy forest ecosystem can be maintained with habitat to support plant and animal populations (RMP p.1, 20, EA p. 13). Connected actions and project design features with regard to habitat features such as snags, CWD and legacy features are described in the EA, pages 16, 18-19. Effects to habitat features such as snags, CWD and legacy features are described on pages 49-50 of the EA.

- b. *The Oregon slender salamander is considered as a Bureau Sensitive Species. According to the Salem BLM Resource Management Plan for all Special Status species the BLM should "[c]onduct field surveys according to protocols and other established procedures." (RMP 29) (11/15/05 Bark letter p. 9).*

**Response to 13b:** The Oregon-Washington Special Status species Policy (BLM Instructional Memorandum (IM) # OR-91-57), Table 1, lists species-oriented inventories for all special status species as “Optional.” Clearance is required, which consists of evaluation through the EA process. Further, the RMP reference cited in the comment is not complete. The full text reads:

Conduct field surveys according to protocols and other established procedures. This includes surveying during the proper season unless surveys are deemed unnecessary through watershed analysis, project planning, and environmental assessment.

Habitat conditions were evaluated, and the presence of Oregon slender salamander in the Clear Dodger project area was presumed (EA p. 48) for analysis purposes. Surveys were not necessary to assess presence. Also, there is no established protocol for surveys for this species.

- c. *Concerned that valuable snags would have to be felled to be in compliance with OSHA standards (11/15/05 Bark letter p. 12).*

**Response to 13c:**

Page 18 of the EA states:

“Snags (generally above 20” DBH) of all decay classes would be left standing to the greatest extent possible, with minor exceptions in order to meet contractual logging procedures and Occupational Safety and Health Administration (OSHA) requirements (RMP p. D-2). Any snags which are cut or knocked down during logging operations would remain on site”.

“Large Snags (greater than 20” DBH); Design features would protect most, if not all, of existing large snags (at least 20” DBH). This would effectively reserve the best existing habitat features for primary excavators and secondary cavity users such as songbirds, bats and other small mammals.”

Though not likely, it is possible that snags of this size class may be cut for safety reasons, or fall incidental to thinning operations. Any large snag (greater than 20 inches) that falls for any reason as a result of thinning operations would remain on-site to become CWD habitat, as defined by the NWFP, providing important habitat for a different (but also) key group of dead-wood associated species (EA pp. 47-48). All dead wood that is on-site when timber marking takes place would remain on-site, either in the form of standing snags or as down logs, after thinning.

- d. *Conducted recent surveys to see if the pileated woodpecker is using the area (11/15/05 Bark letter p. 12)? With a species (pileated woodpecker) so vital to forest health, it is discouraging to read that though habitat is present in the area the proposal would eliminate nearly all that’s available.*

**Response to 13d:** Bark does not indicate how thinning would “eliminate nearly all” habitat that is available to pileated woodpecker. The EA describes the effects to pileated woodpecker in EA Section 2.4.5.1, page 50, and no habitat is described as “eliminated.”

- e. *Recovery of NSO – how leaving only 10 snags per acre and removing all beetle infested trees, which are highly likely to become snags..... contribute to the recovery (11/15/05 Bark letter p. 12).*

**Response to 13e:** The EA does not state that only 10 snags per acre would be left, or that any beetle infested trees would be removed. No snags would be intentionally removed; therefore, this cannot be evaluated in the context of recovery of any species.

- f. *Were surveys performed for the protection buffer bat species (11/15/05 Bark letter p. 13)?*

**Response to 13f:** The project area was screened for bat habitat features based on direction specified in the January 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*. Surveys for former Protection Buffer bats species were not conducted because habitat features that would result in requiring surveys were not present in the project area (EA p. 47).

#### 14. Slopes and Soils

- a. *Large percentage of the sale to be logged on steep slopes, especially given that assurances are made in the EA that logging on steep slopes would not happen at all (11/15/05 Bark letter p. 15).*
- b. *EA fails to adequately address affects to soils from the project (11/15/05 Bark letter p. 15).*
- c. *The EA fails to discuss what the compaction potential is for each unit, and fails to analyze the compaction due to the building of temporary roads and landings (11/15/05 Bark letter p. 15).*
- d. *The EA does not set out any solid mitigation measure to preclude further damage to the soil from harvesting activities (11/15/05 Bark letter p. 15).*
- e. *What evidence is there that the mitigation measures proposed will actually minimize compaction (11/15/05 Bark letter p. 15)?*
- f. *Share info on effects of compaction on dry soils and wet and scientific analysis of the impact of your proposed mitigation measures (11/15/05 Bark letter p. 16)*
- g. *EA Does not adequately assess the impacts of yarding, harvest, and burning on soil stability and erosion (11/15/05 Bark letter p. 16).*

**Response to 14a-14g:** Bark is incorrect in their assumption that a large percentage of the sale is to be logged on steep slopes. Slopes are described on page 32 of the EA. Effects of the project on soils are described on pages 33-35 of the EA. The mitigation measures proposed in the EA (EA pp. 17-18) are standard mitigation measures for protecting the soil resource. Bark raises several points about the soil resources, yet gives no evidence that the proposed project design features would not protect the soil resource.

Explaining the reasons for Best Management Practices (RMP Appendix C) addressing soil compaction is beyond the scope of this analysis. Bark also gives no evidence that the EA does not adequately address the impacts of yarding, harvest and burning on soil stability and erosion or what specifically is missing from the analysis.

- h. *EA states that old growth trees and many of the largest second growth would be reserved from harvest in all units and not be felled unless essential to provide for human safety. Does this apply to trees used as part of yarding operations? (11/15/05 Bark letter p. 16)*
- i. *Evidence that this will indeed become a richer habitat given that the stated concern about competition from brush species (11/15/05 Bark letter p. 16).*

**Response to 14h-14i:** Bark does not make clear which trees “used as part of yarding operations” that it is specifically concerned about. However the statement from the EA concerning “old growth trees and many of the largest second growth” does apply to any trees associated with yarding.

The “stated concern about competition from brush species” that BARK refers to is from Table 4, page 16 of the original Clear Dodger EA, which describes the soil series for the project area. The table includes management considerations for general soil series from the Soil Survey of Clackamas County, Oregon. These management considerations are intended to address regeneration of stands after final harvest, not thinning of existing stands. This is not in conflict with the stated environmental effect; “wider spacing of the residual trees would result in increased growth of understory trees and shrubs, which would provide a richer, more, diverse habitat”. There is no disagreement among forest ecology authorities that increased light reaching the forest floor fosters increased growth of understory trees and shrubs. The *Clear Dodger EA – Reissue Wildlife Report* (pp. 19-20) contains references from recent research that support the effect of increased diversity of wildlife species that result from more structurally complex stands after thinning.

## 15. Spread of Noxious Weeds

*What studies have show that this alone (washing logging equipment) can guarantee that the area won't be subject to an increase in the spread of noxious weeds (11/15/05 Bark letter p. 16)?*

**Response to 15:** BLM makes no claim that washing vehicles alone can guarantee that the area won't be subject to an increase in the spread of noxious weeds. The BLM uses multiple tools to limit noxious weed invasion and spread, of which washing equipment is one. Bark provides no specific evidence that impacts other than those identified in the EA would occur.

## 16. NEPA

*Lack of public participation and time period (11/15/05 Bark letter p. 17)*

**Response to 16:** The EA was a reissue of the environmental analysis first documented in the Clear Dodger Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) (EA# OR080-03-03), dated March 31, 2003. This EA Reissue covered the same projects as the original EA, incorporating changes in Project 1 that were first documented in the Clear Dodger Timber Sale Decision Rationale, dated July 29, 2003. The decision was protested and subsequently remanded back to the BLM. The EA clarified recent changes in policy and some points in the original analysis (EA p. 9).

The IBLA judge in responding to BLM's request to remand the Clear Dodger EA to bring it in line with new Programmatic EIS direction only directed that an appealable decision be issued. No public comment period was required for the re-issue of the Clear Dodger EA/ decision. Even though there were no material changes to the project, no changes to conditions, and no new issues were anticipated, I decided to offer a public comment period. Because the sale is sold, but unawarded, I decided to limit the comment period to 15 days to expedite the process of moving forward towards resolving the status of the sale.

**Appendix B: 2001 ROD Compliance Review: Survey & Manage Wildlife Species** (vers. 01-24-2006)

**Appendix C: 2001 ROD Compliance Review: Survey & Manage Botany Species** (vers. 01-25-2006)