



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Coos Bay District Office

1300 Airport Lane, North Bend, OR 97459

Web Address: <http://www.blm.gov/or/districts/coosbay>

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1792/5400 (ORC030)  
ORC00-TS-2017.0001  
*Devils 29 CT* Timber Sale  
DOI-BLM-ORWA-C030-2011-0003-EA  
Big-Vincent Environmental Assessment

***September 29, 2016***

Dear Concerned Citizen:

We have prepared the Decision Rationale for the *Devils 29 CT* Timber Sale, ORC00-TS-2017.0001. The BLM analyzed the *Devils 29 CT* Timber Sale units in the Big-Vincent Environmental Assessment (EA) (DOI-BLM-ORWA-C030-2011-0003-EA).

We have posted the Decision Rationale for the *Devils 29 CT* Timber Sale on the BLM NEPA Register website at <http://bit.ly/2cu6RME>.

In accordance with Forest Management Regulations under 43 CFR 5003.2, the decision for this timber sale will not become effective until the Notice of Sale is published in a newspaper of general circulation in the area where the lands affected by the decision are located. For this project, the BLM will publish the Notice of Sale in *The World* newspaper.

Please direct requests for copies, questions, or comments to Coos Bay District BLM, 1300 Airport Lane, North Bend, OR 97459; call (541) 756-0100; FAX (541) 751-4303, or email to [BLM\\_OR\\_CB\\_Mail@blm.gov](mailto:BLM_OR_CB_Mail@blm.gov), ATTN: Heather Partipilo.

Sincerely,

***/s/ Todd D. Buchholz***  
Todd D. Buchholz  
Umpqua Field Manager



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## DECISION RATIONALE

for the

### *Devils 29 CT* Timber Sale (ORC00-TS-2017.0001) Big-Vincent Environmental Assessment

#### Background

The Umpqua Field Office, Coos Bay District Bureau of Land Management (BLM), previously prepared the Big-Vincent Environmental Assessment (EA) (DOI-BLM-ORWA-C030-2011-0003-EA). The Big-Vincent EA contained analysis of conducting commercial thinning, alder conversion, and density management thinning treatments within the Upper Smith River, Lower Smith River, and Umpqua River-Sawyers Rapids 5<sup>th</sup> field watersheds. The Big-Vincent EA, which I hereby incorporated by reference, proposes projects to thin approximately 6,184 acres of 34- to 62-year-old stands of conifer, and convert approximately 157 acres of red alder to conifer. On July 24, 2015, I signed a Finding of No Significant Impact (FONSI), which determined that an environmental impact statement (EIS) was not required.

#### Proposed Action

The BLM's *Devils 29 CT* Timber Sale will implement treatment on approximately 74 acres of Douglas-fir and western hemlock within EA Unit 13 in T. 21 S., R. 08 W., Section 29, Willamette Meridian, in the Little Mill Creek-Umpqua River subwatershed. The *Devils 29 CT* Timber Sale is located within Matrix and Riparian Reserve land use allocations, as allocated by the 1995 ROD/RMP.

**Table 1** shows the *Devils 29 CT* Timber Sale unit number and the corresponding Big-Vincent EA analysis unit for clarification (**EA Table 2-5**, p. 16). **Table 1** of this decision rationale includes the final field verified forest treatment acreage and the estimated EA acreage.

**Table 1.** Comparison of the EA unit estimates and the final *Devils 29 CT* acreage

<i>Devils 29 CT</i> Timber Sale Unit Number	Big-Vincent EA Unit Number	Big-Vincent EA Estimated Unit Area (Acres)	<i>Devils 29 CT</i> Timber Sale Actual Unit Area* (Acres)
1	13	70	74

\* Includes right-of-way

The BLM's *Devils 29 CT* Timber Sale will harvest approximately 1.4 MMbf of timber.

The *Devils 29 CT* Timber Sale will not require construction of new roads; however, the project will renovate approximately 3 miles of existing road beginning at the intersection of the Weatherly-Big Creek Road (BLM Road 22-9-14.0) and the Devil’s Graveyard Road (BLM Road 21-9-24.1) and ending in the southern portion of the unit along the 21-8-29 (which includes 13 RENO from the EA), 21-8-29.1, and 21-8-30 roads (**EA Map 4a** and **Map 4b**; **EA Table 2-8**, pp. 24–25). The Big-Vincent EA did not include plans to decommission these renovated roads (EA p. 24-25).

**Table 2.** Comparison of roadwork between the timber sale and the EA

Planning Level	New Road Construction (Miles)	Road Improvement (Miles)	Road Renovation (Miles)	Road Decommissioning (Miles)	Road Full Decommissioning (Miles)
Big-Vincent EA Estimates	0	0	2.97	0	0
<i>Devils 29 CT</i> Timber Sale Final Values	0	0	2.97	0	0

The Big-Vincent EA included a complete list of Project Design Features (PDFs, EA pp. 28–33), which are measures to avoid and minimize effects on resources, and are included as part of the proposed action. These PDFs, and the description of the proposed action, are hereby incorporated by reference. The following is a summary of some of these PDFs applicable to the *Devils 29 CT* Timber Sale:

General Harvest Operations

- The sale area would be harvested with skyline cable yarding systems (EA p. 30).
- One-end log suspension would be required for cable yarding areas (PDF #2; EA p. 28).
- Within safety standards and to the extent possible, trees would be felled away from all unit boundaries, reserves, property lines, roads, orange-painted reserve trees, no-treatment zones, and existing snags (PDF #13; EA p. 28).
- Yarding corridor placement would avoid identified snags and wildlife trees, if operationally feasible (PDF #5; EA p. 28).

Commercial Thinning Prescription

- Stands would be thinned from below to leave trees equivalent to 160 ft.<sup>2</sup> of basal area per acre (EA p. 18).
- The prescription would maintain species diversity by retaining minor species (western red cedar, pacific yew, grand fir, golden chinquapin, Oregon myrtle; big leaf maple ≥ 24 inches DBH), to the same size class distribution and frequency as currently occurring in the stand, except for gaps. Minor species would count towards the target BA (EA p. 18).

Riparian Reserves Prescription

- The prescription would retain minor conifer and hardwood and hardwood species (see list above). Big leaf maple trees > 24 inches DBH would be retained (PDF #8; EA p. 28).
- No-treatment (i.e., ‘no-thin’) zones for intermittent streams would be at least 50 feet (2016 ROD/RMP p. 71).
- Within safety standards, all harvest trees would be directionally felled away from stream no-treatment zones; however, trees that must be felled within a no-treatment zone to provide cable yarding corridors would be felled toward or parallel to the stream channel and retained on site (PDF #13, EA p. 28).

Legacy Structures

- The BLM would reserve from cutting/removal existing down logs in decay classes 3, 4, and 5 and down logs in decay classes 1 and 2 greater than 20 inches in diameter on the large end. Contractors would protect these down logs from damage during logging operations to the extent possible (PDF # 18; EA p. 28).
- Snags would be avoided and reserved from cutting. Snags felled to meet safety standards would stay on site.

### Special Status Species

- If a species of concern is found after the contract has been awarded, the contractor would be required to follow management guidelines to protect the species (PDF #32; EA p. 29).
- All botany Special Status Species found during pre-disturbance surveys in thinning units would be buffered using no-treatment zones to protect the microsites so the species persist at the site (PDF #33; EA p. 29).

### Haul

- Road conditions would be monitored on rock-surfaced roads during winter use to prevent rutting of the rock surface and delivery of fine sediment to stream networks (PDF #87; EA p. 33).

### **Compliance and Conformance**

My decision to offer the *Devils 29 CT* Timber Sale complies with all Federal, State or local laws, regulations and policies imposed for the protection of the environment, including the Endangered Species Act (ESA), Magnuson-Stevens Fisheries Conservation and Management Act, the Clean Water Act, the Coastal Zone Management Act, the Clean Air Act, the Special Status Species program, and the Oregon Smoke Management Rules (2008 OAR 629-048).

The BLM signed a Record of Decision approving the *Northwestern and Coastal Oregon Resource Management Plan* (2016 ROD/RMP) on August 5, 2016.

Revision of an RMP necessarily involves a transition from the application of the old RMP to the application of the new RMP. The planning and analysis of future projects such as timber sales requires several years of preparation before the BLM can design a site-specific project and reach a decision. Allowing for a transition from the old RMP to the new RMP avoids disrupting the management of BLM-administered lands and allows the BLM to utilize work already begun on the planning and analysis of projects.

The 2016 ROD/RMP (p. 10) allows the BLM to implement projects consistent with the management direction of either the 1995 RMP or the approved RMP, at the discretion of the decision maker, if—

- The BLM had not signed a project-specific decision prior to the effective date of this ROD;
- The BLM began preparation of NEPA documentation prior to the effective date of this ROD; and
- The BLM signs a project-specific decision on the project within two years of the effective date of this ROD.

The Coos Bay District, Umpqua Field Office began preparation of NEPA documentation prior to the effective date of the 2016 ROD/RMP, as the District initiated planning and preparation of NEPA documentation for this project on March 18, 2011 when the BLM published a project scoping notice in *The World Newspaper* and on the District website. The Big-Vincent project was designed to conform to and be consistent with the Coos Bay District's 1995 ROD/RMP.

This project meets the criteria described in the 2016 ROD/RMP that allows the BLM to implement projects begun under the 1995 ROD/RMP, with the exception of five categories of prohibited carry-over actions (2016 ROD, p. 11). The Big-Vincent project does not include any actions that are excepted and therefore precluded from the 2-year transition period under the 2016 ROD/RMP.

1. *Regeneration harvest (construction of roads or landings does not constitute regeneration harvest) within the Late-Successional Reserve allocated by this ROD that is inconsistent with the management direction for the Late-Successional Reserve contained within the approved RMP.*

While the land use allocations under the 1995 ROD/RMP designate the project area as Matrix and Riparian Reserve, the 2016 ROD/RMP designated the project area as Late-Successional Reserve and Riparian Reserve. However, this exception does not apply because the project does not involve regeneration harvest.

2. *Issuance of right-of-way grants within the Late-Successional Reserve allocated by this ROD that are inconsistent with the management direction for the Late-Successional Reserve contained within the approved RMP.*

This exception does not apply because the project does not include the issuance of right-of-way grants.

3. *Commercial thinning within the inner zone of the Riparian Reserve allocated by this ROD that is inconsistent with the management direction for the Riparian Reserve contained within the approved RMP.*

This exception does not apply because commercial thinning would not occur within the 50-foot inner zone of the Riparian Reserve allocated by the 2016 ROD/RMP (p. 71).

For the *Devils 29 CT* Timber Sale, which is within a Class I subwatershed (2016 ROD/RMP p. 51), the BLM excluded the intermittent, non-fish-bearing streams from the project treatment area by incorporating 120-foot stream buffers consistent with the 1995 and 2016 RMPs. The incorporation of 120-foot buffers on streams for the *Devils 29 CT* Timber Sale exceeds the 50-foot inner zone Riparian Reserve protections required, and as such, the BLM is allowed to implement the project.

4. *Projects within the District-Designated Reserve – Lands Managed for their Wilderness Characteristics allocated by this ROD that are inconsistent with the management direction for the District-Designated Reserve – Lands Managed for their Wilderness Characteristics contained within the approved RMP.*

This exception does not apply because the project does not occur within the District-Designated Reserve – Lands Managed for their Wilderness Characteristics.

5. *Timber harvest that would cause the incidental take of northern spotted owl territorial pairs or resident singles and does not have a signed Biological Opinion and Incidental Take Statement that predates the effective date of the Biological Opinion for the approved RMP.*

This exception does not apply because the project does not involve timber harvest that would cause the incidental take of northern spotted owl territorial pairs or resident singles. The U.S. Fish and Wildlife Service ('the Service') issued a Letter of Concurrence (TAILS#: 01EOFW00-2015-I-0126) in which they determined that thinning analyzed as part of the Big-Vincent EA *may affect, but are not likely to adversely affect* NSO or NSO critical habitat if implemented as analyzed.

The *Devils 29 CT* Timber Sale is consistent with court orders relating to the Survey and Manage mitigation measures of the Northwest Forest Plan, as incorporated into the Coos Bay District Resource Management Plan (1995 RMP).

In 2006, the District Court for the Western District of Washington (Judge Pechman) invalidated the agencies' 2004 RODs eliminating Survey and Manage due to National Environmental Policy Act (NEPA) violations. Following the District Court's 2006 ruling, parties to the litigation had entered into a stipulation exempting certain categories of activities from the Survey and Manage Standard (hereinafter 'Pechman exemptions').

Judge Pechman's Order from October 11, 2006 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 projects 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.”

I have reviewed the *Devils 29 CT* Timber Sale in consideration of the litigation history. The *Devils 29 CT* Timber Sale includes thinning only in stands less than 80 years old. Thus, I have made the determination that this portion of the project meets Exemption ‘a.’ of the Pechman exemptions (October 11, 2006 order), and therefore, may still proceed to be offered for sale.

The analysis by the BLM's Big-Vincent EA interdisciplinary team concluded that implementation of the Proposed Action would not increase the likelihood for or the need to list any Special Status Species as identified in BLM Manual 6840 and BLM OR/WA 6840 policy (EA pp. 61 and 93).

The BLM botanist completed botanical Special Status Species surveys on all units for which species surveys are practical, or those species included in the 2013 State Director's Special Status Species List. Within the *Devils 29 CT* Timber Sale area, the BLM botanist identified and buffered one Bureau Sensitive species (*Bryoria subcana*) to ensure persistence at the site (Exhibit A).

The BLM staff submitted proposed activities that may affect listed wildlife species within the project area for consultation with the Service, in accordance with Section 7(A)(2) of the Endangered Species Act of 1973 [16 U.S.C. 1536(A)(2) and (A)(4) as amended]. The BLM received a Letter of Concurrence (FWS Ref. #01E0FW00-2015-I-0126) from the Service on March 12, 2015, in which they stated, “the Service agrees with the District's effects determination that the Proposed Action(s) **may affect, but are not likely to adversely affect** spotted owls” or their critical habitat (USDI FWS 2015, Letter of Concurrence, pp. 28–29). The Service further stated “the Service agrees with the District's effects determination that the Proposed Action(s) **may affect, but are not likely to adversely affect** marbled murrelets” or their critical habitat (USDI FWS 2015, Letter of Concurrence, pp. 32–33).

On April 28, 2015, the BLM sent the Service an amendment to the original Big-Vincent Biological Assessment (BA), notifying them of a new NSO site within the Big-Vincent analysis area detected during 2015 NSO surveys. The BLM's original Big-Vincent BA remained the same; however, the amendment provided an evaluation of the effects of the proposed action to the newly detected Devil's Graveyard NSO site. As treatments will not take place in the nest patch of this site, nor within any nesting, roosting, or foraging (NRF) habitat, and all of the original conservation measures and project design features will apply to the newly detected site, the Service, on May 12, 2015, concurred with the District's conclusion that the Big-Vincent Proposed Action “**may affect, but is not likely to adversely affect** spotted owls associated with this new spotted owl site” (USDI FWS 2015b, Amendment to March 12, 2015 Letter of Concurrence, p. 2).

The Devils 29 CT Timber Sale is not within the disturbance or disruption distance of NSO or MM habitat; therefore, seasonal and daily timing restrictions are not required.

Based on analysis, the BLM fish biologist concluded that the proposed activities in the Big-Vincent EA project area would have ‘no effect’ on threatened Oregon Coast Coho Salmon, Coho Critical Habitat, or Essential Fish Habitat (EFH) for Coho and Chinook Salmon (Fish Biologist Staff Report, p. 2). Therefore, consultation with the National Marine Fisheries Service (NMFS) is not warranted (EA p. 10).

The Big-Vincent project complies with the Coastal Zone Management Act and I have determined that there will be no adverse effects to Coastal Zone resources from implementing the *Devils 29 CT* Timber Sale. There will be no effects to water quality (EA pp. 66–72).

The Aquatic Conservation Strategy (ACS) Objectives (EA pp. 98–108), and relevant findings, were incorporated into the Proposed Action. The BLM hydrologist concluded that the proposed activities within the Big-Vincent EA project area will promote attainment of ACS Objectives.

The Big-Vincent EA is in compliance with the Clean Water Act, the National Historic Preservation Act, and the Clean Air Act. The project area does not contain any Areas of Critical Environmental Concern, designated wilderness, Wild and Scenic rivers, or prime and unique farmlands. There were no concerns identified regarding cultural resource values, Native American religious concerns, or environmental justice issues (EA pp. 108–111).

### **Public Involvement**

Initial scoping for the Big-Vincent EA was from March 18, 2011 to April 16, 2011 (EA pp. 10, 123). The BLM provided direct notification to adjacent landowners and interested parties on the District NEPA mailing list and posted a scoping letter to the District website at <http://www.blm.gov/or/districts/coosbay/plans/index.php>. The BLM received 3 letters providing scoping comments. The interdisciplinary team (IDT) considered substantive comments in development of the project design, particularly towards new road construction and decommissioning, thinning prescription design, and large wood recruitment.

On April 21, 2015, the BLM informed the public of the availability of the *draft* Big-Vincent EA and *preliminary* FONSI for review. The BLM notified interested and concerned parties on the District’s NEPA mailing list, which included adjacent landowners, the web update group, and others who requested notice on this type of project (EA p. 123). The BLM also posted an announcement on the District’s website, as indicated above.

The *draft* EA and *preliminary* FONSI were available for review and comment until May 20, 2015. As a result of comments received on the *draft* EA and *preliminary* FONSI, the BLM made a few changes to clarify project design, share new information, and add supporting data to the effects analysis.

The final EA included the following changes:

- Revision of road-related **Tables 2-4, 2-7, and 2-8** to reflect the addition of 0.08 miles of road improvement and 0.42 miles of new road construction (EA pp. 15, 20–25)
- Revision of **Map 4a–Road Work (West)** to reflect the additional road work (**Appendix I**)
- Added language referencing the BARK v. U.S. Bureau of Land Management ruling, in which the Court accepted the BLM’s interpretation of its RMP authorizing timber harvest in Riparian Reserves to apply silvicultural practices to control stocking, reestablish and manage stands, and acquire desired vegetation characteristics (EA p. 12)
- Revision of and separation of ‘Legacy Structures’ PDFs from ‘Trees Excluded From Harvest’ PDFs (EA p. 28)
- Revision of the snag and down wood analysis; addition of a unit-by-unit snag and down wood recommendation table (**Table 3-12**, pp. 60–61); and additional background information for snags (**Appendix G**) and down wood (**Appendix H**)

- Added baseline information for recent instream large wood placements within the analysis area (**Table 3-17**, EA p. 76)
- Revision of other reasonably foreseeable future actions (EA p. 34)

The changes to the EA did not change the analysis or result in different outputs or alternatives; therefore, additional effects analyses were not required.

I signed the FONSI on July 24, 2015, and the BLM once again notified the public using the District's NEPA mailing list and made the updated documents available to the public at the website listed above.

### **Rationale for the Decision**

Using the Decision Factors described in the Big-Vincent EA (EA p. 7), I am choosing to offer the *Devils 29 CT* Timber Sale for the following reasons:

1. Implementation of the proposed action best meets the purpose and need described in the Big-Vincent EA (pp. 5–6); the no action alternative does not meet the purpose and need for action.
2. It reduces competition-based mortality and increases tree vigor and growth specific to the Late-Successional Reserve and Riparian Reserve.
3. It provides timber resources for sale and revenue from the sale of those resources to the government.
4. It provides cost effective management that would enable implementation of these management objectives while providing collateral economic benefits to society.
5. It complies with applicable laws and Bureau (BLM) policies, including, but not limited to, the Clean Water Act, the Endangered Species Act, the Magnuson-Stevens Fisheries Conservation and Management Act, and the Special Status Species program.

### **Administrative Remedies**

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 in 43 CFR Subpart 5003 Administrative Remedies, protests of this decision may be filed with the authorized officer, Todd Buchholz, within 15 days of the publication date of the notice of decision/Notice of Sale advertisement in *The World* newspaper, Coos Bay, Oregon on September 29, 2016.

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

43 CFR § 5003.3 subsection (c) states: "Protests received more than 15 days after the publication of the notice of decision or the notice of sale are not timely filed and shall not be considered." Upon timely filing of a protest, the authorized officer shall reconsider the project decision to be implemented in light of the statement of reasons for the protest and other pertinent information available to him. The authorized officer shall, at the conclusion of the review, serve the protest decision in writing to the protesting party(ies). Upon denial of a protest, the authorized officer may proceed with the implementation of the decision as permitted by regulations at 5003.3(f).

If no protest is received by the close of business (4:30 p.m.) within 15 days after publication of the decision notice, this decision will become final. If a timely protest is received, the project decision will be reconsidered in light of the statement of reasons for the protest and other pertinent information available, and the Coos Bay District Office will issue a protest decision.

For further information, contact the Coos Bay District Office at 1300 Airport Lane, North Bend, OR 97459; by phone at (541) 756-0100; or by email at BLM\_OR\_CB\_Mail@blm.gov, Attn: Heather Partipilo.

**Decision Approved by:**

*/s/ Todd D. Buchholz*

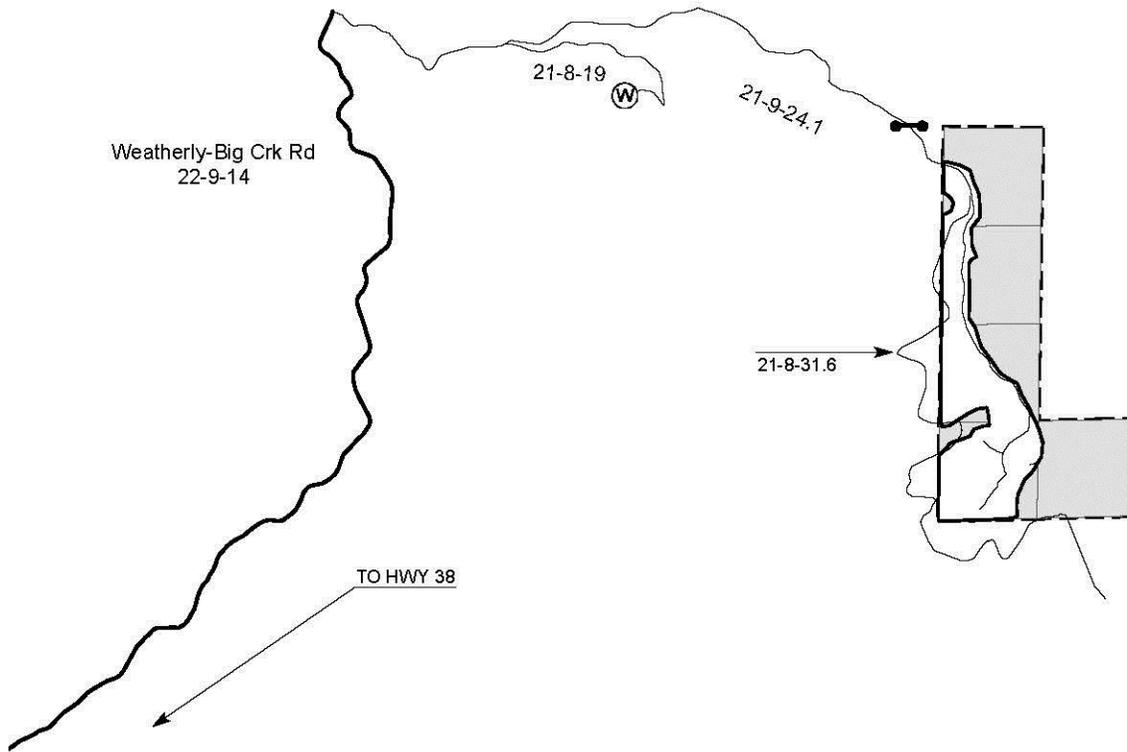
*September 20, 2016*

\_\_\_\_\_  
Todd D. Buchholz  
Umpqua Field Manager

\_\_\_\_\_  
Date

Attachments: Timber Sale Prospectus Maps (Exhibits A-1 and A, 2 pages)





-  Boundary of Contract Area
-  Reserve Area
-  Partial Cut Boundary
-  Paved Road
-  Rock Road
-  Locked Gate
-  Heliport (Fire Use Only)



Scale 1 inch = 0.5 mile