

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ROSEBURG DISTRICT

NEPA CATEGORICAL EXCLUSION REVIEW

Background:

Roseburg District Office
777 NW Garden Valley Blvd.
Roseburg, Oregon 97471
Phone: 541-440-4930

NEPA Document No. DOI-BLM-OR-R000-2015-0005-CX

A. Proposed Action Title: Roseburg District Special Forest Products Sales for Fiscal Year 2016

Location of Proposed Action: Lands administered by the Bureau of Land Management (BLM) throughout the Roseburg District, subject to areas withdrawn from collection/harvest activities, or limits on types of Special Forest Product collection/harvest to address specific resource concerns.

B. Description of Proposed Action: Sales of Special Forest Products

In order to provide balance and consistent management of Special Forest Products regulations and guidelines set forth in the September 27, 1996, H-5400-2 Special Forest Products Procedures Series Handbook will be adhered to.

Special forest products are limited to those that can be collected under a free use permit (mushrooms, floral greenery, etc. for personal use) or sold using Form 5450-5 (for the sale of vegetative material up to a value of \$2499.00), Form 5450-1 (for the sale of vegetative material over \$2500.00), and Christmas tree tags. Special Provisions for collection/harvest of each individual product which provide general and specific collection/harvest stipulations would be attached to each contract by which the Purchaser must abide.

Not all manner of Special Forest Products would be available for collection/harvest in all areas. Restrictions on the location, timing and quantities of sales will be developed in cooperation between contract administrators and District and Field Office resource specialists. Areas withdrawn from Special Forest Product collection/harvest may include culturally and/or historically sensitive areas identified by the District Archaeologist, Areas of Critical Environmental Concern/Research Natural Areas or Outstanding Natural Areas, developed recreation sites (trails, campgrounds, day-use areas etc.), and other areas of identified resource concerns.

It is the responsibility of the Contract Administrators to approve all contracts and make determinations on acceptable contract quantities and duration, or provide Front Desk personnel with sufficient information and direction to do so. Contract Administrators are also responsible for updating and providing a map to the Front Desk of all areas withdrawn from Special Forest Products collection/harvest.

Special Forest Products available for collection/harvest include but are not limited to the following items:

<u>Product</u>	<u>Time of Collection/Harvest</u>
1. Beargrass	October through February
2. Boughs	September to December
3. Burls	Spring
4. Cascara bark	Spring
5. Christmas trees	November and December
6. Seed and decorative cones	Summer
7. Yew bark	Spring
8. Firewood and other timber-based products Measured in Board Feet (i.e. posts, poles, rails) ¹	Generally year round
9. Greenery (i.e. fern, salal, huckleberry brush, Oregon-grape, manzanita)	September to March
10. Mushrooms	September to May
11. Quinine conk	Year round
12. Transplants, seedlings, and/or roots	Generally Spring
13. Edible and medicinal plants, roots, bark, berries, etc.	Spring/summer

In a ruling on *Conservation Northwest et al. v. Mark E. Rey et al.* on December 12, 2009, Judge Coughenour in the U.S. District Court for Western Washington set aside the 2007 Record of Decision eliminating the Survey and Manage mitigation measures, but deferred issuing a remedy until further proceedings. Judge Coughenour did not set aside the Pechman exemptions, or enjoin the BLM from proceeding with projects.

The plaintiffs and Federal Agencies entered into settlement negotiations in April 2010, and the Court filed approval of the resulting Settlement Agreement on July 6, 2011. The 2011 Settlement Agreement made four modifications to the 2001 ROD: acknowledged the existing 2006 Pechman exemptions; updated the 2001 Survey and Manage species list; established a transition period for application of the new species list; and established new exemption categories (2011 Exemptions).

On April 25, 2013, the Ninth Circuit Court of Appeals invalidated the 2011 Survey and Manage Settlement Agreement, reinstating the 2001 ROD species list.

On February 18, 2014, the District Court for the Western District of Washington issued a remedy order in the case of *Conservation Northwest et al. v. Bonnie et al.*, No. 08-1067- JCC (W.D. Wash.)/No.11-35729 (9th Cir.).

The remedy order contained two components. The order:

- (1) Vacates the 2007 ROD to Remove or Modify the Survey and Manage S&M Mitigation Measure Standards and Guidelines, and
- (2) Allows for continued project planning and implementation for projects that relied on the 2011 Consent Decree and were being developed or implemented on or before April 25, 2013 (date of the Ninth Circuit Court ruling invalidating the 2011 Consent Decree).

¹In most instances these products would be collected in timber harvest areas and would be subject to the seasonal restrictions applicable to the individual timber sale units/areas. Collection outside timber sale units/areas would be subject to appropriate seasonal restrictions for bald eagle, golden eagle, marbled murrelet, northern spotted owl and peregrine falcon described in the pages that follow.

In summary, the current status of Survey and Manage is:

- (1) Follow the 2001 S&M ROD and Standards and Guidelines (S&G);
- (2) Apply the “Pechman exemptions;” and
- (3) Implement the 2001, 2002, and 2003 ASR modifications to the S&M species list, except for the changes made for the red tree vole.

Project Design Features

The following restrictions/exclusions would apply to collection/harvest activities.

Access – Access will be provided by existing roads, both surfaced and unsurfaced. No operation of all-terrain or off-road vehicles would be permitted in the collection/harvest of Special Forest Products. During the wet season, typically November to April or during periods of prolonged precipitation vehicle operations would be restricted to rock-surfaced or paved roads to avoid damage to road surfaces and minimize the risk of sedimentation to streams crossed by unsurfaced roads.

Cultural Resources – Issuance of contracts for the collection of transplants would be coordinated with the District Archaeologist to avoid areas where the potential for impacting subsurface cultural resources is considered high. Areas identified in which Special Forest Products collection/harvest would not be authorized include:

- Susan Creek Recreation Area: Sections 13, 14, 15, 22, N½ 23 and 25, T. 26 S., R. 2 W, Willamette Meridian (W.M.);
- Engels/Rattlesnake Creek Area: W½ Section 23 and W½ Section 25, T. 26 S., R. 3 W., W.M.;
- Wolf Creek Recreation Area: Sections 5, 7, 9, 16, 19, 20 and 30, T. 27 S., R. 2 W., W.M.; and
- Cavitt Creek Campground Area: Sections 23 and S½ 25, T. 27 S., R. 3 W., W.M.

Harvesting of edible or medicinal plants, and mushrooms by raking is not authorized so that the likelihood of disturbing undiscovered cultural resources and artifacts is greatly reduced. Sales of transplants would be approved by the District Archaeologist to reduce the likelihood of impacts to subsurface cultural resources.

Recreation: No collection/harvest of Special Forest Products would be authorized within the North Umpqua Wild and Scenic River Corridor, or developed recreational sites, including trails.

Hydrology/Fisheries – No removal of down wood or cutting of live trees for firewood, post, poles, etc. would be allowed in Riparian Reserves, and no collection/harvest of other Special Forest Products would be authorized within sixty (60) feet of live streams or perennially wet areas such as fens, bogs and marshes.

Port-Orford-cedar – Because of concerns of the spread of soil that may be infected with the spores of *Phytophthora lateralis*, the pathogen responsible for Port-Orford-cedar root disease, there would be no harvest of Port-Orford-cedar boughs, unless otherwise authorized.

Botany – No collection/harvest of Special Forest Products would be authorized in Areas of Critical Environmental Concern, Research Natural Areas, and recreational sites.

Special Status plant species identified in Attachment A are not available for transplant sales. Harvesting of edible or medicinal plants, and mushrooms by raking is not authorized in order to avoid disturbing the below-ground structure of plants and fungi.

No sale of mosses would be authorized as numerous Survey & Manage moss species that are extremely difficult to identify grow intermingled with other common moss species. Under such circumstances the harvest of moss would be inconsistent with providing for persistence of Survey & Manage moss species. Other botanical Survey & Manage species have no commercial market because of their rare or uncommon nature and should not be at threat from casual activities that may include collection/harvest of other Special Forest Products, as these activities would not be considered habitat-disturbing.

T & E Wildlife Species– No cutting of green trees for the purpose of harvesting posts and poles, root burls, or yew bark would be permitted in Late Successional Reserves, Riparian Reserves, occupied marbled murrelet sites, and northern spotted owl core areas.

The harvesting of slab burls, firewood, other products measured in board feet (i.e. posts and poles), and the cutting of green trees in the Matrix allocations and Little River Adaptive Management Area for the purpose of harvesting root burls or yew bark would be subject to the following seasonal restrictions:

Northern Spotted Owl: To avoid possible disruption to nesting birds, chainsaw use would be prohibited within 65 yards of unsurveyed suitable nesting habitat or known occupied sites from March 1st to July 15th, unless current year survey results indicate the area is not occupied, northern spotted owls are present but not attempting to nest, or northern spotted owls are present but nesting attempts have failed.

Marbled Murrelet: To avoid possible disruption to nesting birds, chainsaw use would be prohibited within 100 yards of unsurveyed suitable marbled murrelet nesting habitat or known occupied marbled murrelet sites from April 1st through August 5th within Zone 1 or unsurveyed suitable habitat within the 1.3 mile seasonal restriction corridors in Zone 2. From August 6th through September 15th, chainsaw use within Zone 1 and Zone 2 restriction corridors would be subject to a daily operating restriction (DOR) which would prohibit operations until two hours after sunrise and require cessation of operations two hours before sunset. In Zone 2, outside the restriction corridors, chainsaw operations within 100 yards of unsurveyed habitat would be subject to the DOR from April 1st through August 5th.

Fisher: The U.S. Fish and Wildlife Service proposed listing the Pacific fisher as a threatened species. The collection/harvest of Special Forest Products would not be expected to remove or modify habitat utilized by the fisher, and hence have no effect on the species.

Red Tree Vole: The U.S. Fish and Wildlife Service found that listing of the North Oregon Coast Distinct Population Segment of the Oregon red tree vole is warranted, but precluded at this time. The Roseburg District is located almost entirely outside of the range of the North Oregon Coast Distinct Population Segment. The collection/harvest of Special Forest Products is considered unlikely to result in modification or destruction of habitat utilized by the distinct population segment.

Bald Eagle, Golden Eagle and Peregrine Falcon: To avoid possible disruption of nesting eagles and peregrine falcons during the breeding season, all manner of Special Forest Products collection/harvest would be prohibited from January 1 to August 31 in sections containing known breeding/nesting sites and in Bald Eagle Management Areas.

Survey & Manage

Collection/harvest of Special Forest Products is consistent with the Roseburg District Resource Management Plan as amended by the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (2001 ROD), and accompanying list of species.

Pre-disturbance surveys are not required for Survey & Manage wildlife species because the collection/harvest of Special Forest Products would not be habitat-disturbing as described in the respective survey protocol for the great gray owl, red tree vole, and mollusk species.

Additional provisions would be employed to avoid potential noise disturbance to nesting great gray owls by seasonally restricting activities in sections known to contain nesting sites March 15th through July 15th.

C. Land Use Plan Conformance

Roseburg District Record of Decision and Resource Management Plan (ROD/RMP)
Approved: June, 1995

The Proposed Action is in conformance with the 1995 ROD/RMP because it is specifically provided for in the following decision (ROD/RMP, p. 65):

Manage for the production and sale of special forest products when demand is present and where actions taken are consistent with primary objectives for the land use allocation.

D. Compliance with NEPA

This proposed action qualifies as a categorical exclusion under 516 DM 11.5 C (5) "Disposal of small amounts of miscellaneous vegetative products. . .," as published in the Notice of Final Action To Adopt Revisions to the Bureau of Land Management's Procedures for Managing the NEPA Process, Chapter 11 of the Department of the Interior's Manual Part 516. Federal Register: Volume 72, Number 156-August 14, 2007, pages 45503-45542. It has been reviewed to determine if any of the exceptions described in 516 DM 2, Appendix 2.

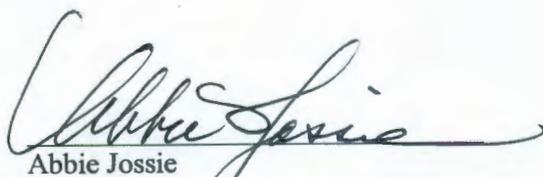
E. Categorical Exclusions - Extraordinary Circumstances Documentation:

THE PROPOSED CATEGORICAL EXCLUSION ACTION WILL:	YES	NO
2.1 Have significant impacts on public health or safety.		X
<p>Rationale: The collection/harvest of Special Forest Products is an activity of s dispersed nature occurring in rural areas on the Roseburg District which is typically accomplished by hand, or with the use of simple hand and power tools (e.g. chainsaws). As such it does not pose any significant risk to public safety.</p>		
2.2 Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		X
<p>Rationale: Collection/harvest of Special Forest Products would not be permitted in any campgrounds and day use areas, along trails, at boat launches, or within the North Umpqua Wild and Scenic River Corridor.</p> <p>No Special Forest Products collection/harvest would be authorized in Areas of Critical Environmental Concern (Research Natural Areas and Outstanding Natural Areas) or other unique geographic features and habitats.</p> <p>No removal of down wood or cutting of live trees for firewood, post, poles, etc. would be allowed in Riparian Reserves in order to maintain streamside shading and the availability of wood for in-stream recruitment. Some collection/harvest, principally edibles and floral greenery, may occur within Riparian Reserves, but the limited nature and extent would have no detectable effects on water quality or quantity. Permits will stipulate that collection/harvest will not occur within 60 feet of stream courses, wetlands and/or floodplains so that there would be no risk of sedimentation or removal of primary shade.</p> <p>Collection/harvest of Special Forest Products would not affect any Prime Farmlands that may exist on the Roseburg District as it would not convert use of the lands to purposes other than what already exists.</p> <p>Collection/harvest of Special Forest Products may directly or indirectly affect migratory birds through disturbance during the nesting season (April-July), which could result in nesting failures or loss of young. Collection/harvest of Special Forest Products is widely dispersed across the District and the products in the greatest demand are typically gathered in autumn and winter months so potential effects to overall populations of migratory birds would be negligible.</p>		
2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		X
<p>Rationale: There are no controversial environmental effects or unresolved conflicts concerning this action. Collection/harvest of Special Forest Products for personal or commercial use has a long history and tradition. This is an action specifically authorized by the ROD/RMP, and as such does not constitute an unresolved conflict regarding the utilization of these resources.</p>		
2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
<p>Rationale: Collection/harvest of Special Forest Products for personal or commercial use has a long history and tradition. The BLM in western Oregon has managed the sales of Special Forest Products for more than two decades and has identified highly uncertain effects or unique or unknown risks having the potential for significant environmental effects.</p>		

2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
<p>Rationale: The sale of Special Forest Products is an activity that has been conducted on the District for decades, and is one explicitly authorized by a decision made in the Roseburg District ROD/RMP. The effects of the sale of Special Forest Products are reviewed periodically. Procedures are modified where deemed necessary and reauthorized.</p>		
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
<p>Rationale: The sale of Special Forest Products is a stand-alone activity, unrelated to any other approved or proposed management actions. The effects on the local environment would be negligible and discountable, of short duration, and spatially dispersed. As such, no cumulative effects are anticipated.</p>		
2.7 Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		X
<p>Rationale: District guidance for the issuance of contracts for Special Forest Product collection/harvest excludes areas of archaeological importance to prevent potential disturbance or damage to high-value and potentially high value sites.</p>		
2.8 Have significant impacts on species listed, or proposed to be listed, as an Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		X
<p>Rationale: This action will have no direct or indirect effects on the Federally-threatened Oregon Coast coho salmon, critical habitat designated for the Oregon Coast coho salmon, or Essential Fish Habitat designated for the Oregon Coast coho salmon and Chinook salmon as there are no actions associated with the collection/harvest that would result in effects to aquatic habitat and water quality.</p> <p>The quantity and types, and spatial distribution of Special Forest Products collection/harvest occurring annually across the District would not result in habitat modification to a degree sufficient to adversely affect the Federally-threatened northern spotted owl or marbled murrelet, and where necessary and appropriate seasonal restrictions will be placed on activities with the potential for disruption during their critical breeding and nesting seasons.</p> <p>In a Letter of Concurrence for the Roseburg District Bureau of Land Management’s Fiscal Year 2014-2015 program of activities which may affect northern spotted owls and marbled murrelets and their critical habitats (TAILS #: 01EOFW00-2014-I-0003), dated December 13, 2013, the U.S. Fish and Wildlife Service concurred that effects of the harvest of Special Forest Products (pp. 11-12) given the special provisions included in the program were not likely to adversely affect northern spotted owls and marbled murrelets and their critical habitats.</p> <p>The U.S. Fish and Wildlife Service proposed listing the Pacific fisher as a threatened species. The collection/harvest of Special Forest Products would not be expected to remove or modify habitat utilized by the fisher, and hence have no effect on the species.</p> <p>The Roseburg District is located almost entirely outside of the range of the North Oregon Coast Distinct Population Segment of the Oregon red tree vole. The collection/harvest of Special Forest Products is considered unlikely to result in modification or destruction of habitat utilized by the distinct population segment.</p> <p>Populations of rough popcorn flower exist only within the North Bank Habitat Management Area, an Area of Critical Environmental Concern, which is closed to the collection/harvest of Special Forest Products. Consequently, the species would not be affected.</p>		

Kincaid's lupine is unlikely to be affected by the collection/harvest of Special Forest Products as: sale as a transplant is not authorized; raking to collect/harvest edible and medicinal plants and mushrooms is not authorized so that below-ground structure from which the plants will re-emerge in successive years would not be affected.		
2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
Rationale: The proposed action conforms with management direction from the Roseburg District ROD/RMP, which complies with all applicable laws, such as Federal Land Policy Management Act, Endangered Species Act, Historic Preservation Act, Clean Water Act, and others		
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 2898).		X
Rationale: The proposed action is consistent with Executive Order 12898 which addresses Environmental Justice in minority and low-income populations. The BLM has not identified potential impacts to low-income or minority populations, internally or through the public involvement process.		
2.11 Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		X
Rationale: The collection/harvest of Special Forest Products is not expected to limit access to or otherwise prevent ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or affect the physical integrity of any such sites.		
2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		X
Rationale: As described, off-road use of vehicles in association with Special Forest Products collection/harvest would not be authorized. Collection/harvest of Special Forest Products is not expected to result in ground disturbance and soil exposure that would create circumstances that would allow for the establishment and/or spread of noxious weed and non-native invasive plant species.		

F. Deciding Official


 Abbie Jossie
 District Manager
 Roseburg District, BLM

8-13-15
 Date

G. Contact Person & Reviewers:

For additional information concerning this Categorical Review, contact:

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Reviewers	Resource Expertise	Initials	Date
Paul Ausbeck	Environmental Coordinator - Planner	PGA	8/13/15
Susan Carter	Botanist	SEC	8/13/2015
Matt Rustand	Wildlife Biologist	MR	8/13/15
Cory Sipher	Fisheries Biologist	CS	8/13/15
Molly Casperson	Archaeologist	MCE	8/13/15

ATTACHMENT A

Special Status Vascular Plants Unavailable for Sale as Transplants

<u>Scientific Name</u>	<u>Common Name</u>
<i>Bensoniella oregana</i>	Bensonia
<i>Calochortus coxii</i>	Crinite mariposa lily
<i>Calochortus umpquaensis</i>	Umpqua mariposa lily
<i>Cypripedium fasciculatum</i>	clustered lady's-slipper
<i>Eucephalus vialis</i>	wayside aster
<i>Horkelia congesta</i> ssp. <i>congesta</i>	shaggy horkelia
<i>Limnanthes gracilis</i> ssp. <i>gracilis</i>	slender meadow-foam
<i>Lupinus oreganus</i> var. <i>kincaidii</i>	Kincaid's lupine
<i>Plagiobothrys hirtus</i>	rough popcorn flower
<i>Sisyrinchium hitchcockii</i>	Hitchcock's blue-eyed grass