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Attorneys for Proposed Defendant-Intervenor

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

IDAHO RIVERS UNITED, MORGAN and)	
OLGA WRIGHT,	)	Case No. 1:15-cv-169-BLW
)	
Plaintiffs,)	
vs.	)	MOTION TO INTERVENE AS
	)	DEFENDANTS BY IDAHO STATE
DISTRICT RANGER JOE HUDSON in his	)	BOARD OF LAND COMMISSIONERS
official capacity, and UNITED STATES	)	AND IDAHO DEPARTMENT OF LANDS
FOREST SERVICE,)	
)	
Defendants.)	
)	

The Idaho State Board of Land Commissioners and the Idaho Department of Lands (collectively "Idaho") request leave to intervene as a matter of right under Fed. R. Civ. P. 24(a) or, in the alternative, permissively under Fed. R. Civ. P. 24(b). The reasons for intervention are set forth in the accompanying memorandum. Idaho's proposed answer to the complaint is attached to this motion as an exhibit.

DATED this 16th day of June 2015.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: /s/ Clay R. Smith
CLAY R. SMITH
Deputy Attorney General

By: /s/ Shasta Kilminster-Hadley
SHASTA KILMINSTER-HADLEY
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of June, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Laurence (“Laird”) J. Lucas
llucas@advocateswest.org

Deborah A. Ferguson
daf@fergusondunham.com

/s/
CLAY R. SMITH

FIRST DEFENSE

1. Paragraphs 1 through 4 contain introductory narrative that must be neither admitted nor denied.

2. Idaho admits in response to paragraph 5 that subject-matter jurisdiction exists over Plaintiffs' claims under 28 U.S.C. § 1331.

3. Idaho admits in response to paragraph 6 that a justiciable controversy exists.

4. Idaho admits in response to paragraph 7 that venue is proper in this Court under 28 U.S.C. § 1391(e).

5. Idaho admits in response to paragraph 8 that 5 U.S.C. § 702 provides a right of judicial review for the claims herein.

6. Idaho is without knowledge as to the truth or falsity on the allegations in paragraphs 9 and 10 and therefore can neither admit nor deny them.

7. Idaho admits the allegations in the first sentence of paragraph 11. It further admits the first clause of the second sentence. It is without knowledge concerning the remainder of the second sentence and therefore can neither admit nor deny them.

8. Idaho admits in response to the first two sentences of paragraph 12 that it has proposed harvesting timber amounting to approximately 6.89 million board feet from state endowment lands adjacent to Plaintiff Wrights' property, that new roads will be constructed on such parcel to facilitate timber removal, and that the number of timber loads trucked off such project will likely exceed 1,000. Idaho is without knowledge concerning the allegations in the second sentence and therefore can neither admit nor deny them. It denies the allegations in the third and fourth sentences.

9. Idaho admits in response to the first sentence in paragraph 13 that Defendant

Hudson is the Moose Creek District Ranger for the United States Forest Service. It denies the remainder of such sentence to the extent that it alleges Defendant Hudson has taken any final action under the Administrative Procedure Act relevant to the claims alleged in the complaint. The second sentence is a legal assertion that requires neither admission nor denial.

10. Idaho admits the allegations in paragraph 14 with respect to the status of Defendant United States Forest Service (“USFS”) as an agency of the United States and its responsibility to manage certain activities on or use of the Nez Perce-Clearwater National Forests.

11. Idaho denies paragraph 15.

12. Idaho admits in response to paragraph 16 that the Selway, Lochsa and Middle Fork Clearwater Rivers are subject to the Wild and Scenic Rivers Act (“WSRA”), 16 U.S.C. §§ 1271 to 1287.

13. Idaho admits paragraph 17 insofar as it quotes accurately from the WSRA.

14. Idaho has no knowledge of the “actions” referred to in the first sentence of paragraph 18 and therefore can neither admit nor deny such allegations. It admits the second sentence to the extent it quotes accurately from the WSRA.

15. Idaho admits the first sentence of paragraph 19 and that referenced management plan has not been revised. By way of further response, Idaho states that WSRA speaks for itself with respect to management plan updating.

16. Idaho has no knowledge with respect to the allegations in paragraph 20 and therefore can neither admit nor deny them.

17. Idaho admits in response to paragraph 21 that Plaintiff Wrights’ property is subject to a 1937 right-of-way and a 1977 easement under the WSRA granted to USFS.

18. Idaho admits in response to paragraph 22 that the referenced right-of-way granted a 30-foot wide easement over Plaintiff Wrights' property and states by way of further response that the easement provides in relevant part: "The said right of way hereby granted is for the construction, maintenance, and operation of a common, main, or State public highway and as a connecting link in the aforesaid Goddard Point Road #289 Project, without any reservations or exceptions whatsoever by the parties of the first part with respect to the construction, repair, maintenance, operation, or control of the full width of said right of way or of any road which may be constructed upon said right of way."

19. Idaho is without knowledge as to the allegations in the first two sentences of paragraph 23 and therefore can neither admit nor deny them. Idaho states in response to the second sentence that it is without knowledge as to whether Plaintiff Wrights maintain Road 652 as it borders their property and therefore can neither admit nor deny such allegation; Idaho denies the sentence's remaining allegations insofar as they relate to Road 652 as it passes through the state endowment parcel at issue. It admits that the sign identified in the third sentence exists currently but is without knowledge as to the remaining allegations in such sentence and therefore can neither admit nor deny them.

20. Idaho states with respect to paragraph 24 that the 1977 WSRA easement speaks for itself.

21. Idaho admits in response to paragraph 25 that the referenced management plan contains the quoted language.

22. Idaho admits in response to paragraph 26 that USFS has adopted regulations, some of which appear in 36 C.F.R. Parts 212 and 251, relevant to managing use of the National Forest System.

23. Idaho admits in response to paragraph 27 that the quoted portions of 36 C.F.R. § 212.1 appear in such regulation.

24. Idaho states in response to paragraph 28 that 36 C.F.R. § 212.6(c) speaks for itself.

25. Idaho states in response to paragraph 29 that 36 C.F.R. §§ 212.6(a) and 212.6(b) speak for themselves.

26. Idaho states in response to paragraph 30 that 36 C.F.R. §§ 251.50(d)(1), 251.54(e)(5) and 251.110(d) speak for themselves.

27. Idaho states in response to paragraph 31 that 36 C.F.R. § 251.54 speaks for itself.

28. Idaho states in response to paragraph 32 that 36 C.F.R. §§ 251.50 through 251.56 speak for themselves.

29. Idaho states in response to paragraph 33 that 36 C.F.R. § 212.55(a) speaks for itself.

30. Idaho admits paragraph 34.

31. Idaho admits in response to paragraph 35 that USFS issued a DRAMVU draft environmental impact statement and further responds that the document speaks for itself. It admits that the quoted language in the second sentence appears at http://data.ecosystem-management.org/nepaweb/nepa_project_exp.php?project=17752 (last visited May 28, 2015).

32. Idaho admits paragraph 36.

33. Idaho admits in response to paragraph 37 that the quoted language appears at http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5209985.pdf (last visited May 29, 2015).

34. Idaho admits in response to paragraph 38 that Road 652 is a gravel or dirt road. It further admits the second sentence. It is without knowledge as to the “official forest map” referenced in the first sentence and therefore can neither admit nor deny allegations concerning the document’s contents.

35. Idaho denies paragraph 39.

36. Idaho is without knowledge as to the allegations in paragraph 40 insofar as they characterize Plaintiff Wrights’ mental state or the reasons therefor.

37. Idaho is without knowledge as to the contents of Plaintiff Idaho Rivers United (“IRU”) request under the Freedom of Information Act and therefore can neither admit nor deny the allegations in paragraph 41.

38. Idaho states in response to paragraphs 42 through 49 that the referenced emails speak for themselves.

39. Idaho admits in response to paragraph 50 that the term “public road” is not defined in USFS regulations or Title 36 of the United States Code. It further admits that the second sentence accurately quotes from § 7730.5 of the Forest Service Manual.

40. Idaho denies paragraph 51 to the extent that it alleges Road 652 is not a “public road” as defined in § 7730.5 of the Forest Service Manual to the extent that it crosses land subject to the easement referred to in paragraph 22.

41. Idaho denies paragraph 52 insofar as it alleges that Road 652’s status as a “public road” must be so “classified” or “designated” or that the referenced “determination” was subject to review under the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321 to 4370h.

42. Idaho denies paragraphs 53 through 58 insofar as they allege that Road 652 is not a “public road” as defined in § 7730.5 of Forest Service Manual to the extent that it crosses

land subject to the easement referred to in paragraph 22 or that Idaho's proposed use of Road 652 is inconsistent with any easement.

43. Idaho admits paragraph 59.

44. Idaho admits in response to paragraph 60 that its representatives met with Plaintiff Wrights on May 13, 2015, and discussed with them the Idaho's intention to conduct a sale of timber on school endowment lands subject to a fire during 2014 and adjacent to the their property. By way of further response, the representatives stated that Idaho would not proceed forward until they were advised of Plaintiff Wrights' position. On May 19, 2015 Plaintiff Wrights' counsel advised Idaho by letter that the gate on her clients' property across the Road 652 easement was no longer locked and attached a "courtesy" copy of the complaint in this matter.

45. Idaho admits the first sentence of paragraph 61 insofar as it alleges that proposed salvage sale involves harvesting approximately 142 acres of timber on state endowment lands within one mile of the Selway River and will require establishing approximately three miles of roads on the state parcel that will include six, not seven, switchbacks. Idaho admits in response to the second sentence that portions of the roads will be established on 40 to 80 degree slopes but, by way of further response, states that only 1.05 mile of roads will be constructed on slopes exceeding 60 percent, that full bench construction protocols will be utilized to ensure soil stability, and that all switchbacks are located on benches deemed stable by an agency engineering geologist who conducted a slope stability analysis. Idaho is without knowledge concerning the meaning assigned the term "road construction engineering plan" in the third sentence and therefore can neither admit nor deny the sentence's allegations; by way of further answer to such sentence, it states that road route specifications developed for the salvage project

are consistent with applicable Idaho statutes and regulations, specifically the Idaho Forest Practices Act, Idaho Code §§ 1301 to -1314, and implementing regulations, IDAPA 20.02.01. Idaho denies the fourth sentence and, by way of further answer, states that the estimated 18,520 yards of extra material will be used for project-related purposes such as providing fill over culverts, building turnouts and yarding pads, and raising road running surfaces. Idaho admits the fifth sentence. Idaho admits in answer to the sixth sentence that approximately .39 miles of Road 652 on the state parcel will be widened to 16 feet and, by way of further response, states that all such road surface is within the state parcel. Idaho admits the seventh sentence and, by way of further response, states that any such roads must be constructed in accordance with standards specified in the contract and related documents, which standards shall be consistent with those for the road construction currently deemed necessary for project purposes.

46. Idaho is without knowledge concerning 1964 determination, or the facts underlying it, referenced in paragraphs 62 through 64 and therefore can neither admit nor deny the allegations in such paragraph.

47. Idaho denies paragraphs 65 and 66.

48. Idaho incorporates by reference paragraphs 1 through 47 of this answer in response to paragraph 67.

49. Idaho states in response to paragraph 68 that no admission or denial is required because it contains legal narrative.

50. Idaho denies paragraphs 69 and 70.

SECOND DEFENSE

The complaint fails to state a claim upon which relief may be granted.

WHEREFORE, Idaho respectfully requests that the complaint be dismissed with prejudice and that it be awarded costs and such other relief as appropriate.

DATED:

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: _____
CLAY R. SMITH
Deputy Attorney General

By: _____
SHASTA KILMINSTER-HADLEY
Deputy Attorney General

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

IDAHO RIVERS UNITED, MORGAN and)	
OLGA WRIGHT,	)	Case No. 1:15-cv-169-BLW
)	
Plaintiffs,	)	MEMORANDUM IN SUPPORT
vs.	)	OF MOTION TO INTERVENE AS
	)	DEFENDANTS BY IDAHO STATE
DISTRICT RANGER JOE HUDSON in his	)	BOARD OF LAND COMMISSIONERS
official capacity, and UNITED STATES	)	AND IDAHO DEPARTMENT OF LANDS
FOREST SERVICE,)	
)	
Defendants.)	
)	

The Idaho State Board of Land Commissioners (“Land Board”) and the Idaho Department of Lands (“IDL”), (referred to collectively herein as “Idaho”), file this memorandum in support of their motion to intervene pursuant to Fed. R. Civ. P. 24.

INTRODUCTION

Plaintiffs challenge the Defendant United States Forest Service’s (“USFS”) failure to require a permit for the use of Road 652 by the Idaho Department of Lands in connection with a

fire salvage timber project on a parcel of state public school endowment land Idaho has a substantial interest in this matter because Road 652 provides the only practicable access to the parcel. Without the ability to use Road 652 to conduct the salvage operations on the parcel, Idaho will be unable to protect that portion of the endowment *res* from spoliation due to decreased timber values, harmful erosion and insect infestation to healthy trees (both on and off the state parcel). Further, Idaho will be unable to proactively manage the parcel to protect its future value without commencing regeneration of new trees through reseedling. Idaho thus requests intervention as of right under Fed. R. Civ. P. 24(a) or, alternatively, permissive intervention under Fed. R. Civ. P. 24(b) to protect its interests.

ARGUMENT

The United States upon admission of Idaho to the Union granted to the State the 16th and 36th sections of lands in every township “for the support of common schools.” Organic Act of the Territory of Idaho, 12 Stat. L. 808, ch. 117, § 4. Article IX, Section 8 of the Idaho Constitution imposes a fiduciary duty on the Land Board “to provide for the location, protection, sale or rental” of the school lands “in such manner as well as secure the maximum long term financial return” for the school children of Idaho. “The State’s endowment lands are part of a sacred trust reserved for the benefit of Idaho’s public schools and public institutions. The Board, which manages those endowment lands, is the epitomic public trustee.” *Wasden v. State Bd. of Land Comm’rs*, 153 Idaho 190, 195, 280 P.3d 693, 698 (2012).

The Board and IDL have a duty to protect and preserve the parcel of school endowment land that is accessed by Road 652, which borders Plaintiff Wrights’ private land, by way of an

easement granted to USFS. *Id.* ¶ 3 & Ex. A.^{*} The parcel was heavily timbered before the August 2014 Johnson Bar fire, which burned approximately 8,804 acres of land, including the timber on the state parcel. *Id.* ¶ 4.

As State Forester Groeschl explains, the parcel at issue consists of 245 acres lying within Section 16 of T32N, R7E in Idaho County. Groeschl Decl. ¶ 3 & Ex. A. Road 652 provides immediate access to the property. That road is accessed from Road 470 that runs to the north of the parcel, crosses the Selway River and intersects with a county road. *Id.*, Ex. A. The Land Board authorized a salvage sale on the parcel in February 2015, and IDL has scheduled an auction for the related timber contract for June 19, 2015. *Id.* ¶ 8 & Exs. I - K.

Time is of the essence in salvage logging because of the anticipated decline in value of the harvestable timber on the parcel, due both to fire damage and to insect infestations that are the result of fire damage; the potential for spread of fire-related insect infestations to surrounding healthy forest; the potential for damage caused by soil erosion on the parcel in the absence of clearing and reseedling; and the state interest in regenerating its forests for future use. Because this proceeding interferes with the Board's and IDL's ability to fulfill their fiduciary duty. Idaho seeks intervention to protect its interests by carrying the Land Board's salvage sale authorization.

I. IDAHO IS ENTITLED TO INTERVENE AS A MATTER OF RIGHT

Rule 24(a) provides:

Upon timely application the court must permit anyone to intervene who . . . claims an interest relating to the property or transaction that is the subject of the action and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

^{*} The State of Idaho owns the land over which Road 652 crosses the endowment parcel; *i.e.*, USFS has no easement or management authority with respect to such section of the road. Groeschl Decl. ¶ 3.

To determine whether an applicant may intervene as a matter of right, the court uses a four-part test: (1) whether the application is timely; (2) whether the applicant has asserted an interest relating to the property or transaction that is the subject of the action; (3) whether the applicant is situated such that disposition of the action without intervention may impair or impede its ability to protect that interest; and (4) whether the applicant's interest is not adequately protected by the existing parties. *Orange County v. Air Cal.*, 799 F.2d 535, 537 (9th Cir. 1986) (citations omitted). No difference exists in these standards with respect to the stage of the litigation. *E.g.*, *Wilderness Soc'y v. USFS*, 630 F.3d 1173, 1180 (9th Cir. 2011) (abandoning "federal defendant" rule in National Environmental Policy Act cases that imposed "a categorical prohibition on intervention on the merits, or liability phase"). Although the applicant has the burden of showing that the four elements are met, the requirements are broadly interpreted in favor of intervention. *Prete v. Bradbury*, 438 F.3d 949, 954 (9th Cir. 2006).

A. Timeliness

Courts consider three factors in determining whether an intervention motion is timely: the stage of the proceeding, any prejudice to other parties, and the reason for and length of the delay. *United States v. Oregon*, 745 F.2d 550, 552 (9th Cir. 1984). This case has only just begun; the complaint was filed a mere 28 days ago, with an answer not due from Defendants until 60 days after service. Fed. R. Civ. P. 12(a)(2). A return of service has not been filed as of this date. Under these circumstances, no plausible argument exists either that Idaho has delayed unreasonably in seeking intervention or that intervention will cause any delay in the orderly disposition of Plaintiffs' claim.

B. Significantly Protectable Interest

Whether Idaho demonstrates a sufficient interest related to the subject of the current action depends upon establishing a significantly protectable interest that has some relationship with the claims at issue. *Nw. Forest Res. Council v. Glickman*, 82 F.3d 825, 837 (9th Cir. 1996). Idaho has such an interest given the Land Board's and IDL's duty to protect and preserve state school endowment parcels for the long-term benefit of the common schools. This duty was imposed as a condition of statehood and broadened by the Idaho Constitution. *See, e.g., Idaho Watersheds Project v. State Bd. of Land Comm'rs*, 133 Idaho 64, 67, 982 P.2d 367, 370 (1999) ("Article IX, § 8 provides that the objective of sales and leases of state endowment lands is to 'secure the maximum long term financial return to the institution to which granted or to the state if not specifically granted.' This is in keeping with the Idaho Admission Bill admitting Idaho into the union, which provides that monies received from the sale or lease of school endowment lands 'shall be reserved for school purposes only.'"). Idaho has an interest in salvaging the timber and preventing further soil erosion and potential landslide activity on the parcel and in protecting against insect infestations drawn to fire-damaged forest. Preventing such harmful impacts is part and parcel of protecting the trust *res* for the benefit of its beneficiaries. The timber on the state parcel, finally, relates to "the subject of the action" (*Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 817 (9th Cir. 2001)) because, but for the proposed salvage sale, the lawsuit would not have been filed.

C. Potential Impairment

The Court of Appeals in determining whether movant's interests are potentially impaired, "follow[s] the guidance of Rule 24 advisory committee notes that state that '[i]f an absentee would be substantially affected in a practical sense by the determination made in an action, he

should, as a general rule, be entitled to intervene.’” *Sw. Ctr. for Biological Diversity*, 268 F.3d at 822. Idaho’s interests will be substantially impacted by this action.

State Forester Groeschl’s declaration, as summarized above, describes the negative impact on Idaho’s interest in maximizing the long financial return with particular regard for the timber on the state parcel described above. Grand fir trees on the parcel are currently experiencing Ambrosia beetle infestation and face the prospect of a Fir Engraver beetle infestation in the future. *Id.* ¶ 6. Many western red cedar trees have burned-out bases that likely will fall in the near future, thereby creating wild fire fuel. *Id.* Two other species, western white pine and Douglas fir, are at risk because of “weakened root systems, basal burning and exposed erosive soils.” *Id.* Delay in the timber salvage project additionally will retard reforestation efforts. *Id.* Timber on the state parcel in the burn area, in sum, must be harvested, and any delay in that harvest has substantial negative impacts to the endowment beneficiaries. *Id.*; *see also id.*, Ex. C at 5-6 (Pt. III.C.5).

The complaint suggests that Plaintiffs will seek preliminary injunctive relief against Defendants if IDL proceeds forward with the timber salvage project. Comp. Wherefore ¶ C. Although the precise nature of any injunction requested cannot be predicted with assurance, it is plain that the end purpose would be to disrupt Idaho’s project timetable and to make it impossible to complete the timber harvest activities this year. Plaintiffs’ claim, if successful, thus would substantially prejudice Idaho’s interests “in a practical sense.”

D. Inadequate Representation

The Ninth Circuit explained in *Arakaki v. Cayetano*, 324 F.3d 1078 (9th Cir. 2003), that “[t]he burden on proposed intervenors in showing inadequate representation is minimal, and would be satisfied if they could demonstrate that representation of their interests ‘may be’

inadequate.” *Id.* at 1086 (quoting *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)). The Court then identified three factors that it considers in assessing the representational adequacy issue:

(1) [W]hether the interest of a present party is such that it will undoubtedly make all of a proposed intervenor’s arguments; (2) whether the present party is capable and willing to make such arguments; and (3) whether a proposed intervenor would offer any necessary elements to the proceeding that other parties would neglect.

Id. There is, as well, “‘an assumption of adequacy when the government is acting *on behalf of a constituency that it represents*,’ which must be rebutted with a compelling showing.” *Citizens for Balanced Use v. Montana Wilderness Ass’n*, 647 F.3d 893, 898 (9th Cir. 2011) (quoting *Arakaki*, 324 F.3d at 1086)) (emphasis added). Application of these factors establishes that Defendants do not adequately represent Idaho’s interests.

First, Defendants’ sole concern lies in establishing that they have no statutory or regulatory relationship to the salvage project; *i.e.*, that USFS has no duty to take an action through the permitting process with regard to the use of Road 652 by the project’s eventual purchaser. Defendants, in short, are legal strangers to the project. Consequently, in defending this lawsuit, they will not be “acting on behalf of constituency that [they] represent[]” but, instead, will be advancing their view concerning the proper interpretation and application of applicable federal statutes and regulations. In a preliminary injunction proceeding, to illustrate, Defendants neither could nor would claim irreparable injury from the detrimental effects on Idaho’s interests from the delay in initiating or completing the salvage project that an injunction presumably would cause. There is, for the same reason, no assurance that they will approach the remaining non-probability-of-success elements of preliminary injunction analysis—the balance of equities and the public interest—as Idaho will. *See K.W. ex rel. D.W. v. Armstrong*,

No. 14-35296, 2015 WL 35299727, at *5 (9th Cir. June 6, 2015) (four-part preliminary injunction test). Thus, Defendants will not make all the arguments that Idaho will proffer.

Second, Idaho is uniquely positioned not only to explain the salvage project's need and operational detail but also to respond to Plaintiffs' allegations that it would be harmful. Paragraphs 61 through 64 of the complaint assert that the project's road construction will result in soil erosion, increase slope instability and create a visual eyesore of waste in a wild and scenic area. State Forester Groeschl's declaration addresses these allegations generally, while other IDL employees have extensive knowledge concerning the salvage project that contradicts Plaintiffs' claim of likely harm from the project's implementation. Defendants likely possess no corresponding knowledge. Indeed, the lack of such knowledge logically follows from the absence of any obligation on USFS to subject use of Road 652 to a federal permit. Idaho accordingly brings to this case something that Defendants lack: detailed knowledge of the activity that precipitated the dispute and the efforts made to ensure that it does not compromise the ability of the trust *res* to serve the long-term interests of its beneficiaries.

II. ALTERNATIVELY, IDL IS ENTITLED TO PERMISSIVE INTERVENTION

Rule 24(b) provides:

(b) Permissive Intervention.

(1) *In General.* On timely motion, the court may permit anyone to intervene who:

...

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) *By a Government Officer or Agency.* On timely motion, the court may permit a federal or state governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.

(3) ***Delay or Prejudice.*** In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

If not permitted to intervene as a matter of right, Idaho should be permitted to intervene because it satisfies the requirements of both Rule 24(b)(1) and Rule 24(b)(2), either of which is sufficient to permit Idaho's intervention, and intervention will not "unduly delay or prejudice the adjudication" of the claims under Rule 24(b)(3).

A. Common Question Permissive Intervention

Idaho seeks to conduct a salvage sale of timber this year to protect the endowment lands from insect infestations, to reduce the amount of fire fuel, to construct new or reconstruct existing culverts given the likelihood of increased run-off because of the Johnson Bar fire, and to begin regenerating timber on the parcel. As discussed above, time is of the essence to achieving these goals. Plaintiffs' claim that the salvage project's use of Road 652 as it crosses Plaintiff Wrights' property is subject to issuance of USFS permit directly threatens accomplishment of these goals. Idaho, like Defendants, denies any such permitting requirement exists. Also quite plain is that Plaintiffs have as a principal objective stopping the salvage project. Given this set of circumstances, no reasonable question exists that its defense shares a common question of law or fact with the main action.

That conclusion is buttressed through consideration of the discretionary factors examined by courts in determining whether a common question of law or fact exists:

"the nature and extent of the intervenors' interest, their standing to raise relevant legal issues, the legal position they seek to advance, and its probable relation to the merits of the case[,] whether changes have occurred in the litigation so that intervention that was once denied should be reexamined, whether the intervenors' interests are adequately

represented by other parties, whether intervention will prolong or unduly delay the litigation, and whether parties seeking intervention will significantly contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.”

Perry v. Schwarzenegger, 630 F.3d 898, 905 (9th Cir. 2011) (quoting *Spangler v. Pasadena Bd. of Educ.*, 552 F.2d 1326, 1329 (9th Cir. 1977)). Each of these factors has been addressed above, and each counsels allowing intervention.

B. Governmental Agency Permissive Intervention

Rule 24(b)(2) permits government officers or agencies to intervene where a party’s claim affects administration of statutes or regulations that they are charged to implement. Its language permitting governmental intervention was added by amendment in 1946. *See* Fed. R. Civ. P. 24 (1946 Advisory Committee Notes). “[T]he whole thrust of the amendment is in the direction of allowing intervention liberally to governmental agencies and officers seeking to speak for the public interest.” 7C Charles Alan Wright *et al.*, *Federal Practice and Procedure* § 1912 (3d ed.) (Westlaw Database Apr. 2015). Applying Rule 24(b)(2) in *Nuesse v. Camp*, 385 F.2d 694 (D.C. Cir. 1967), the court reversed a district court’s denial of a state official’s intervention motion, explaining as follows:

It is a significant fact that the applicant for permissive intervention is a government official. Rule 24(b) was expressly amended in 1946 so as to permit intervention by a state or federal governmental official charged with administering a state statute or regulation on which any party relies for his claim or defense. The amendment was added to avoid exclusionary constructions where public officials seek permission to intervene, and the amendment in effect expands the concept of claim or defense insofar as intervention by a governmental officer or agency is concerned. It is perhaps more accurate to say that it considers the governmental application with a fresh and more hospitable approach.

Id. at 704-05 (internal quotations and citations omitted). Such a “fresh and more hospitable approach” is singularly appropriate here.

Idaho is charged with managing its endowment lands for the benefit of the endowment

beneficiaries. *See* Idaho Code § 58-403. The proposed salvage sale represents a quintessential example of Idaho's discharging this statutory responsibility. Plaintiffs' claims are a direct result of Idaho's proposed logging activity and provided the impetus for their challenge. Idaho should therefore be allowed to intervene pursuant to Rule 24(b)(2).

C. Lack Of Delay

Rule 24(b)(3) requires a court to consider whether the proposed intervention "will unduly delay or prejudice the adjudication of the original parties' rights." Idaho's intervention will not cause any undue delay or prejudice, as this action has just begun. Idaho agrees to work cooperatively with the other parties' counsel to achieve a prompt and fair resolution of this case.

CONCLUSION

For the foregoing reasons, Idaho respectfully requests that the Court grant its Motion to Intervene as a Defendant.

DATED this 16th day of June 2015.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By: /s/
SHASTA KILMINSTER-HADLEY
Deputy Attorney General

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_____/s/
SHASTA KILMINSTER-HADLEY

received a Bachelor of Science degree in forest management from the University of Wisconsin—Stevens Point and a Master of Science degree in forestry from Virginia Polytechnic Institute and State University.

2. In my current position, I have administrative responsibility for four IDL bureaus: Technical Services, Fire Management, Forest Management and Forestry Assistance. Two—Fire Management and Forest Management—are relevant for purposes of this declaration. The Fire Management Bureau has a core function of protecting approximately 6.2 million acres of state, private and federal forest lands by preventing or suppressing wild fires. The Forest Management Bureau has a core function of properly managing approximately 1 million acres of forested endowment trust lands to maximize the long-term return and sustainability of these resources for the Public School Endowment and other endowed beneficiaries. Among that bureau's principal duties is conducting timber and salvage sales on state endowment trust lands to generate income for the Public School Permanent Endowment Fund established under the Idaho Constitution. The bureau and operations staff that work in these two programs total over 150 individuals, many of whom have post-secondary degrees in academic and professional disciplines such as cartography, engineering, forestry, hydrology, and terrestrial species or fish biology. All of these disciplines are relevant to effective forest management, and most projects undertaken by IDL with respect to such management involve some (and often substantial) cross-disciplinary collaboration.

3. Section 4 of the Idaho Admission Bill conveyed Sections 16 and 36 of every township in this State for the support of common schools. These lands include a parcel of state endowment land approximately 245 acres in size and located within Section 16 of T32N, R7E in Idaho County. The map in the attached Exhibit A shows the state parcel in light blue, together

with the adjacent privately and federally owned lands. It further shows the roads that border or cross the parcel. Road 470 lies to the north, while Road 652 crosses the parcel's eastern portion and is shown by the white dashed line. The red dashed line reflects the salvage project route on Road 652 outside the state parcel and on Road 470. The red dashed portion of Road 652 lies on a 30-foot wide easement granted to the United States Forest Service ("USFS") by Lillian Finnell on November 20, 1937 across Lot 3, Section 16, T32N, R7E. Ex. B at 1. The easement is approximately 700 feet in length. Road 652 as it passes through the state parcel is wholly in state ownership; no easement exists in favor of any public or private entity.

4. The state parcel was heavily timbered prior to a wild fire that occurred in August 2014 and is commonly referred to as the Johnson Bar fire. Ex. C at 1 (Gen. Info. C.1). The state parcel's timber consisted of western redcedar (60 percent), grand fir (38 percent), with the remainder consisting of western white pine and Douglas fir prior to the fire. *Id.* at 3 (Pt. II.B.2). The USFS's Burned Area Emergency Team reported on September 29, 2014 that the Johnson Bar fire burned approximately 8,804 acres of land, including 8,326 acres of federal land, 320 acres of state land, and 158 acres of private land. Ex. D.

5. IDL concluded that a salvage sale of timber this summer and fall from the state parcel affected by the Johnson Bar fire is necessary to maximize income for the endowment given damage caused to harvestable trees by the fire, current and future insect infestations, preventing the spread of such infestations to non-burned areas, soil deterioration and land slides because of increased soil erosion, diminishing forest fire fuel, and regenerating or restoring the burned area with seedlings. These benefits are widely recognized among most land management professionals and past IDL experience.

6. These generally accepted rationales for early salvage following wildfires apply with respect to the Johnson Bar fire as it affected the state parcel. A pre-sale report prepared by the Forest Management Bureau concluded that 142 acres of the burned area where timber salvage has been proposed is comprised of fire intolerant tree species and resulting in Ambrosia beetle infestation at the grand firs' base currently and Fir Engraver beetles in the future. Ex. C at 5 (Pt. III.B.2.a). Many western redcedars have bases that have been burned out and will eventually fall within the next few years, adding fuel to the site and the likelihood of the site re-burning. *Id.* The report adds that “[i]t is anticipated that nearly all fire intolerant tree species within the sale area will die within the next one to two years.” *Id.* Remaining trees—*i.e.*, western white pine and Douglas fir—likely will die because of “weakened root systems, basal burning and exposed erosive soils.” *Id.* Restoration is anticipated through planting western white pine at 250 trees per acre. *Id.* at 6 (Pt. III.B.2.e). The Bureau anticipates placing slash from the timber harvest on moderately-to-severely burned slopes to reduce soil erosion and land slide potential. Ex. C at 7 (Pt. III.C.5), Exs. E & F. IDL, as explained in the next paragraph, will construct new culverts as part of the salvage project to accommodate increased run off from the parcel land to streams and monitor their status to control debris build-up. Ex. G.

7. The appraised net sale value of the salvage project timber is \$1,639,228.50. Ex. H. The project itself consists of two basic components: (1) a transportation plan that includes (a) widening of .39 miles of Road 652 as it crosses endowment land to a 16-foot running surface and placing pit run rock on it for protection and (b) the construction of 3.43 miles of new roads and 27 culverts within the state parcel to facilitate the timber harvest: and (2) a timber harvest. Ex. C at 3-5 (Pt. III.A and B). The project's management plan additionally has identified various actions designed to control soil erosion, including

- grass-seeding designated trails;
- straw-mulching areas deemed critical;
- maintaining rolling cross dips on native surfaced areas throughout the project;
- cross-ditching and barricading designated roads and skid trails;
- cleaning all culverts and ditch lines at the end of each logging season, completion of the project and as otherwise directed by IDL:
- oversizing and armoring all new culverts;
- installing debris traps above all stream crossings; and
- retaining slash and large woody debris for use in minimizing soil erosion.

Ex. C at 6-7 (Pt. III.C.1-5). These activities will be conducted in accordance with the Idaho Forest Practices Act, Idaho Code §§ 38-1301 to -1313, and implementing rules, IDAPA 20.02.01 to 20.02.071. Those rules address, among other matters, timber harvesting, including soil protection, the location of skid trails, and stream protection (*id.* 20.02.030); road construction and reconstruction (*id.* 20.02.040); reforestation (*id.* 20.02.050); and slash 20.02.070). management (*id.* 20.02.070).

8. The State Board of Land Commissioners approved the salvage sale at its regular meeting on February 17, 2015. Ex. I at 4. The auction for the timber was scheduled for April 24, 2015 but cancelled because of right-of-way access controversy with Plaintiffs Wrights. A new auction has been scheduled for June 19, 2015. Ex. J. The proposed special terms of the sale are attached as Exhibit K.

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED on June 16, 2015.

/s/

DAVID GROESCHL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of June, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Laurence ("Laird") J. Lucas
llucas@advocateswest.org

Deborah A. Ferguson
daf@fergusondunham.com

_____/s/
CLAY R. SMITH
Deputy Attorney General

EXHIBIT A

SALVAGE PROJECT AREA MAP

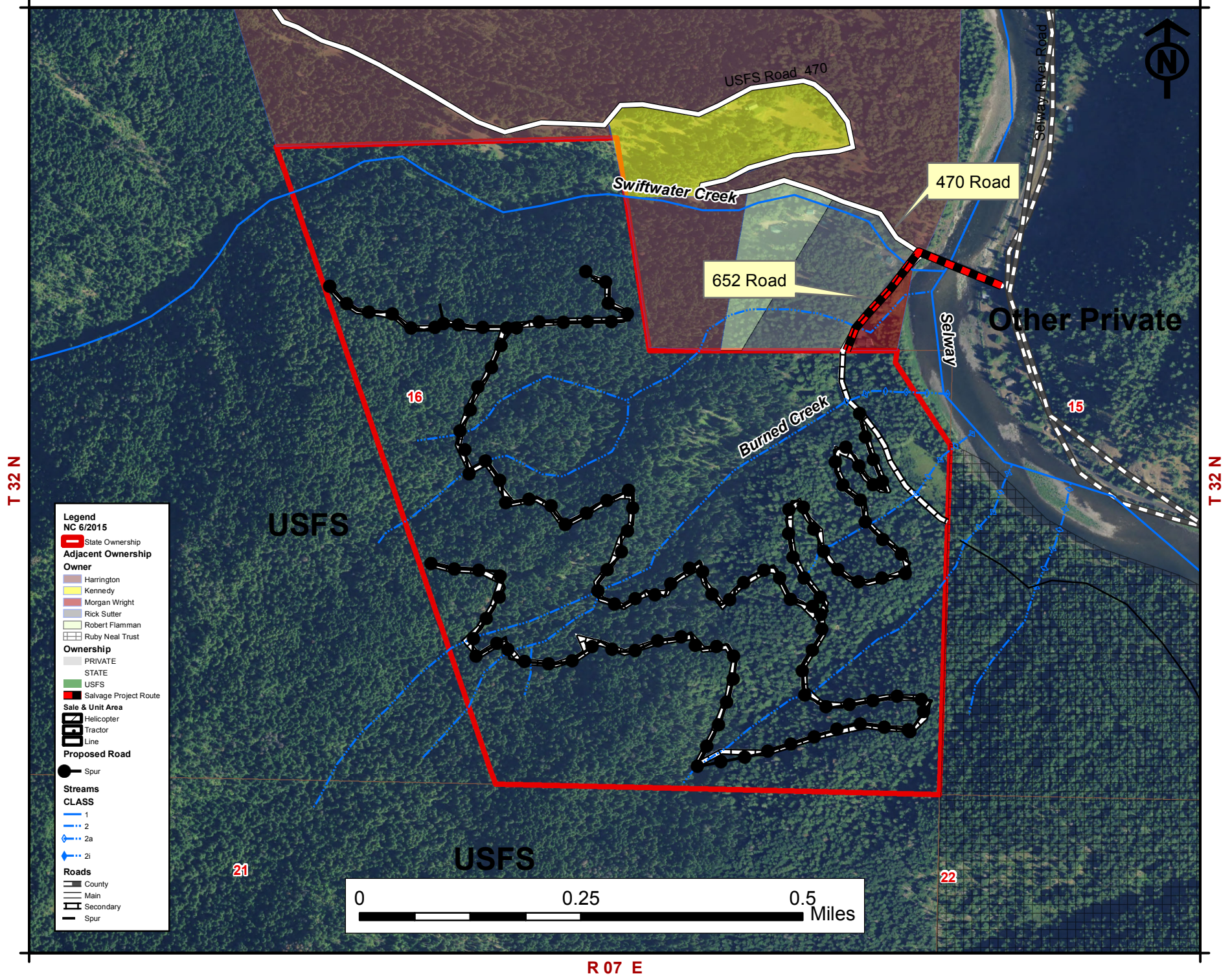


EXHIBIT B

LILLIAN FINNELL EASEMENT

RIGHT-OF-WAY DEED

THIS INDENTURE, Made this 20th day of November in the year one thousand nine hundred and ~~twenty~~ thirty seven, between

Lillian Finnell ~~xxxxxx~~
of the County of _____, State of _____, grantors,
parties of the first part, and the United States Forest Service,
Dep't. of Agriculture, parties of the second part, WITNESSETH:

That for and in consideration of One Dollar (\$1.00), the receipt of which is hereby acknowledged, the parties of the first part do hereby grant, bargain and sell, dedicate, convey and confirm unto the party of the second part an easement and right of way 30 feet wide across Lot 3, section 16, township 32N, range 7E, Boise meridian

and located on the ground according to the survey line, the figures, measurements, and other references shown on the blue print hereto attached and made a part hereof, the said blue print being a true copy of a portion of the plan prepared for the highway to be constructed by the Secretary of Agriculture of the United States, and known as the Goddard Point Road #289 Project.

The said right of way hereby granted is for the construction, repair, maintenance, and operation of a common, main, or State public highway and as a connecting link in the aforesaid Goddard Point Road #289 Project, without any reservations or exceptions whatsoever by the parties of the first part with respect to the construction, repair, maintenance, operation, or control or otherwise of the full width of the said right of way or of any road which may be constructed upon the said right of way. The said parties of the first part hereby release the party of the second part from all damages by reason of, or in connection with, the construction, repair, maintenance, or operation of a road or highway upon the said right of way. The parties of the first part do also hereby dedicate the said right of way to the general public for all road and highway purposes provided for in the laws of the State of Idaho

Provided if, at any time hereafter, the said right of way shall be discontinued by the properly constituted authorities in such matters for all purposes as a public road, then the said easement covered by the said right of way shall revert to the said parties of the first part, their heirs, successors, administrators, or assigns.

IN WITNESS WHEREOF the said parties of the first part have hereunto subscribed their names and affixed their seals at _____

Lewiston, County of Nez Perce, State of Idaho,
the day and year first above written.

Lillian Finnell

EXHIBIT A

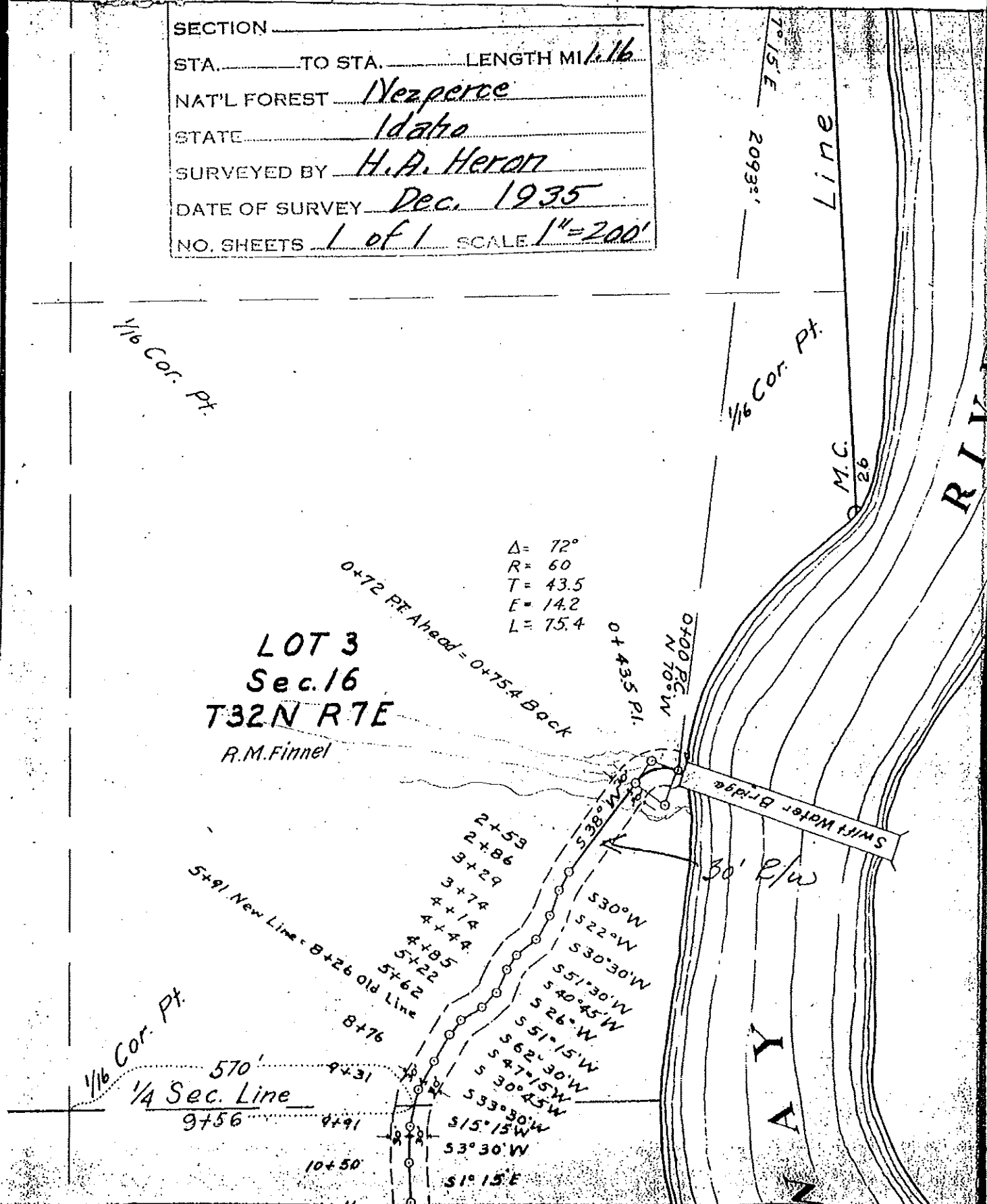


EXHIBIT C

PRE-SALE REPORT – SELWAY FIRE

PRE-SALE REPORT

Selway Fire

CR-42-5085

PREPARED BY: _____ DATE: _____
Nick Carter, Senior Resource Specialist

REVIEWED BY: _____ DATE: _____
Dan Fabbi, Resource Supervisor

APPROVED BY: _____ DATE: _____
Zoanne Anderson, Area Manager

GENERAL INFORMATION

A. General Location

The proposed sale is located approximately twenty-five (25) miles east of Kooskia, Idaho.

B. Historical

A sale sold to Clyde Newland was cancelled in 1951. This is the only timber sale noted on this parcel. No volumes or other details for this sale could be found. However, evidence on the ground points to a cedar sale. There are numerous old trails up draw bottoms and cedar stumps. This timber sale appears to be the only notable historical activity that has occurred within this portion of Endowment land.

C. Purpose of Sale

1. To salvage timber burned in the summer of 2014 by the Johnson Bar fire, capturing value before timber becomes too decayed and loses merchantability.
2. To maintain productivity of the site, primarily through artificial regeneration.

D. Treatment Summary

<u>UNIT</u>	<u>SYSTEM</u>	<u>ACRES</u>	<u>MBF REMOVED</u>	<u>MBF/AC REMOVED</u>	<u>RESIDUAL GREEN TREES PER ACRE</u>
1	Clearcut	142	5,855	41.2	N/A
2	R-O-W	<u>25</u>	<u>1,035</u>	<u>41.4</u>	N/A
Total/Average		167	6,890		

II CURRENT CONDITIONS

A. Physiographic

1. Drainages: There are seven Class II streams that exist within or lie near the sale area, Burned Creek and five other unnamed streams lie outside the area. One other unnamed Class II stream falls within the sale area. Swiftwater Creek, a Class I stream, lies outside the sale area's northern boundary. All of these streams are tributary to the Selway River.

The Selway River and Swiftwater Creek are listed as critical habitat for both Bull Trout and Steelhead. Class II streams near the sale are have no critical habitat listing.

All streams in or near the sale area, according to the IDDEQ Final 2010 Integrated Report, are fully supporting beneficial uses or have not been assessed by the IDDEQ to date.

2. Aspect: All aspects are represented, but the predominant aspect is east.
3. Slopes: Range from 0 - 80%, average 40%.
4. Geology and Soil Characteristics: Geologically, the subject area consists of Precambrian, high-grade metamorphic rock; metasediments; kyanite-sillimanite schist, and micaceous quartzite. The rocks are overlain by a varying thickness (estimated at 1-3 feet) of ash rich surficial colluvial soils. The surficial soils generally consist of silty sand to sandy silt with a few resistant boulders. There are a few areas where the soil horizon is relatively thin and rock outcrop is evident. This information and a site specific slope stability assessment was provided in the, Selway Sale CR-42-5085, Slope Stability - Observations, Risk Assessment and Recommendations by the IDL Engineering Geologist.
5. Elevation: 1,560 feet – 2,480 feet; midpoint 1,960 feet

B. Stand Description

1. Habitat Type: The majority of the area falls into the THPL/CLUN (western redcedar / queencup beedily) habitat type. This was determined from visits to the sale area prior to the burn.
2. Units 1 and 2 were burned during the Johnson Bar fire in the summer of 2014. The stand is comprised of grand fir (38%) and western redcedar (60%). The remaining 2% of the species composition is widely scattered western white pine and Douglas-fir. While the burn severity was determined to be low to moderate by the USFS Burned Area Report within the sale area, all of the listed species shows signs of basal burning and are anticipated to experience high levels of mortality due to very low resistance to fire. The Douglas-fir and grand fir in both units show signs of root rots and stem decay. Schweinitzii root and butt rot, *Phaeolus Schweinitzii*, is present in low to moderate levels in the Douglas-fir. Indian Paint Fungus, *Echinodontium tinctorium*, is present in the grand fir. The western redcedar also shows signs of laminated butt rot *Phellinus weirii*, and brown pocket rot, *Postia sericeomollis*. The grand fir also shows evidence of Ambrosia beetles attacking them around the base of

Pre-sale Report
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the tree. This was noticed almost immediately after the fire had passed through in early September.

3. Current Stand Structure:						
<u>UNIT</u>	<u>TYPE</u>	<u>SPECIES COMPOSITION (PERCENT)</u>	<u>AGE RANGE (AVERAGE)</u>	<u>GROWTH RATE IN/10 yr (AVERAGE)</u>	<u>ACRES</u>	<u>AVERAGE MBF/AC. (TPA)</u>
1, 2	13	Vol. -GF(52); CE(46); DF(1); WP(1)	86-150+	0.5 – 0.9	167	41.3
		TPA - CE(60); GF(38); DF(1); WP(1)	(100)	(0.6)		(97)

III. MANAGEMENT PLAN

A. Transportation Plan

- Existing: The sale area is accessed by traveling approximately 3 miles along the Selway River County Road to the FS 470 Road, then across the Selway River on the Swiftwater Bridge to the FS 652 Road and then up river approximately 700 feet to the sale area. Both the FS 470 and FS 652 Roads cross private ground. However, in the late 1930's and early 1940's easements were granted to the USFS designating these roads all purpose public roads and no special permits are required for use of these roads. The FS 652 Road continues upstream accessing the bottom portion of the sale area. The Swiftwater Bridge currently has a load limit of 34 tons for a conventional log truck configuration. Posted load limits will be followed for all sale activity.
- Reconstruction: Approximately 0.39 miles of the FS 652 Road that crosses endowment land will be reconstructed to a 16 foot running surface. A vented ford will be constructed in Burned Creek to allow any large debris flows that may occur to pass through the crossing and prevent any loss to the road surface. In addition, six culverts will be installed to improve drainage. One slump along this road will be repaired and have large diameter rip rap laid on it to help hold it in place and prevent further movement across the road.
- New Construction: Approximately 3.43 miles of spur road will be constructed with this sale. Newly constructed roads will be sixteen feet in width with turnouts as designated and cut slopes will be 1:1 (horizontal to vertical) on cut and fill constructed roads. Cut slopes will be ¾:1 (horizontal to vertical) on full bench constructed roads. To gain the elevation required to reach the upper portions of the sale, seven switchbacks will need to be constructed at locations identified on the development map and in the development log. Approximately 1.06 miles of this road system will require full bench road construction on slopes ranging from 60% to 80%. Approximately 57,890 cubic yards of material will be excavated during the full bench construction. All waste material

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can be used to fill over culverts, extend landings, and build turnouts and switchbacks and wasted on the 652 Road and on cut and fill portions of newly constructed road. Twenty-seven culverts will be installed in the newly constructed and reconstructed roads for stream crossings and relief.

4. Surfacing: A total of 3,200 cubic yards of pit run rock and rip rap will be utilized for the sale. Approximately 990 cubic yards of pit run rock will be placed on the FS 652 road for road surface protection, ford construction and turnout construction. The remaining 2,210 cubic yards of pit run rock and rip rap will be used to armor inlets and outlets of culverts and applied on the running surface of the road over culverts. The 3,000 yards of pit run rock will be supplied by a stock pile of rock located on State Hospital South endowment land in the Wilson Ridge rock pit. A payment of \$10,680.00 from Public Schools Earnings Reserve fund to State Hospital South Earnings Reserve fund will be made to compensate State Hospital South for its investment in the rock. The remaining 200 cubic yards of rip rap will be furnished by the purchaser.

B. Silvicultural and Harvest Plan

1. Anticipated Stand Composition:

UNIT	TYPE	SPECIES COMPOSITION (%)	Acres	AVERAGE (TPA)
1	50	TPA- WP(100%)	142	250
2	R-O-W	N.A.	25	0.00

2. Treatment Description

- a. **Clearcut Justification** Unit 1 (142 acres) is a salvage operation to capture the value of timber burned by the Johnson Bar fire during the summer of 2014. The stand is comprised of 98% fire intolerant species, grand fir and western redcedar. At a distance the majority of the stand would appear to have not been damaged by the fire but once in under the stand the damage is quite evident. Almost every tree has been burned around the base. Both grand fir and western redcedar are not tolerant to this degree of burning. Ambrosia beetles have already begun infesting the bases of the grand fir. Additionally, Fir Engraver beetles are likely to infest grand fir stressed from fire activity over the next few years. The western redcedar that was of pole quality has held up well but many of the western redcedar have had the bases burned out and are only being held upright by a shell and others have already fallen. It is anticipated that nearly all fire intolerant tree species within the sale area will die within the next one to two years. The remaining 2% of the standing species, western white pine and Douglas- fir are very scattered and intermittent throughout the sale area. With the weakened root systems, basal burning and exposed erosive soils these trees also stand little chance of surviving. During the summer and fall there are steady winds down the river corridor that would cause these trees, if retained, to blow over. This was witnessed by the

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high levels of blow down within the sale area during visits to the stand prior to the fire. Also, during the sale setup trees were falling daily due to wind events. The current overstory is dead or dying and needs to be removed before any further economic losses occur. Salvage operations and subsequent planting will ensure the productivity of the site is maintained along with long-term financial return to the endowments.

Unit 2 (25 acres) is the right-of-way unit comprised of the reconstruction and new construction of sale roads. All stems within specified clearing widths will be removed and merchantable products recovered.

- b. Hazard Management – The purchaser will pile all landing and right-of-way slash except for windrows that will be left on side slopes greater than 45%. All burning will be completed with a Hazard Management Project assigned to this sale.
- e. Forest Improvement Activity – The sale area will be planted with western white pine at a stocking level of 250 trees per acres. Natural regeneration is also anticipated.
- f. Harvest Schedule
 - 1) No specific harvest schedule is required.
- g. Harvest Specifications
 - 1) This sale contains approximately 68 acres of long line cable yarding, 41 acres of tractor yarding and 58 acres of prescriptive yarding. Cable yarding distances are not expected to be over 800 feet. Cable yarding equipment will have a locking carriage. Prescriptive yarding areas are designated on the Sale Map and the purchaser will submit a plan to the State (Forester-in-charge) for approval prior to any harvest activities occurring in these areas. A Site Specific Plan has been developed for tail-holds placed across Swiftwater Creek as per the requirements of the SRBA Idaho Forestry Program.
 - 2) All trees within the marked unit boundary, eight inches diameter breast height or greater, shall be harvested and merchantable products removed. Pulp and cedar product removal will be optional. Limbing, topping, bucking, and long butting in the woods will be required, as allowable under fire hazard rules, on all cable yarding portions of the sale or as designated by the State (Forester-in-charge) to provide a slash mat for soil retention and stability. Whole tree yarding will be allowed on tractor yarding areas within the sale area.

C. Erosion Control Plan

- 1. Designated trails will be grass seeded and critical areas straw mulched. This work will be the responsibility of the state and will be completed

within the first year after harvest.

2. Rolling cross dips will be maintained in all native surfaced roads and maintained throughout the sale duration.
3. Designated roads and skid trails will be cross-ditched and barricaded with all culverts and ditch lines cleaned at the end of each logging season, upon the termination of the sale, or as designated by the state.
4. Culverts have been oversized to accommodate larger stream flows. All inlets and outlets of culverts will be armored. Debris traps will be installed above all stream crossings.
5. Slash and large woody debris is being retained within the sale area to minimize potential post-fire soil erosion on all cable yarding portions of the harvest area as designated by the State(Forester-in-charge).
6. A gate will be installed at the beginning of the new construction to limit access on unsurfaced roads to non-motorized use only.

D. Forest Practices Act

This sale is prepared in accordance with the Idaho Forest Practices Act. No variances are anticipated. The terms of the SRBA Agreement, Idaho Forestry Program, provided guidance for the reconstruction and construction of sale roads.

IV. IMPACT STATEMENT

A. Aesthetics

The sale area lies approximately 400 feet west of the Selway River which has been federally designated as a Wild and Scenic river. This section of the river is designated as "Recreational", rather than "Wild or Scenic" due to roads and residential developments along this stretch of the river. Travelers along Selway River County road will be able to see portions of the sale area across the river. Prior to reaching any point where the public could see the sale area, travelers will see federal forest lands that have been burned and portions of private lands that have been burned or have been harvested post-burn. If the public were to travel the FS 470 Road they would be able to see only the portion of the sale lying to the South of Swiftwater Creek and very little else except for adjacent burned or harvested private and Federal lands. Between the river's edge and the FS 652 Road there is a five to seven acre cedar grove that will not be harvested. This area will buffer views of the sale area from individuals who float the river.

GIS modeling has been done to try and estimate or project the potential areas of the sale that can be viewed by recreationists and the general public. These modeling runs illustrate that what a person will see depends on their location. General topographic features and adjacent private lands block views of the entire

sale area. There is no one place from a road or the river that a person could see the whole sale area. The seven Class II streams within this portion of endowment land have been excluded from harvest because the trees suffered little fire damage. Retaining stringers of standing timber will breakup the visual impacts and contribute to natural regeneration along edge of harvest area.

The sale will be regenerated artificially and over time the public will start to see the plantation develop into larger trees. It is also anticipated that natural regeneration will populate the site over time giving the site a forested appearance with young healthy trees.

B. Potentially Affected Interests

There are two residences along the FS 652 Road. Mr. Morgan Wright and Mr. Rick Sutter will experience an increase in traffic due to logging truck and road development usage. The FS 652 Road and a short portion of the FS 470 will be maintained throughout the course of the sale and watered, as needed, to reduce the impacts of dust. These individuals will be kept apprised of each process as the sale develops. A public information campaign will be utilized once the sale is approved to keep the nearby residents and other affected interests informed on the activities happening on this portion of Endowment Land and to educate the public on the mission, responsibilities, and obligations the Department has in managing Endowment Lands for the beneficiaries.

Members of the public utilize the Selway River County Road (and to a much lesser extent, the FS 470 Road) for recreational purposes. To lessen the impacts on recreationists, the timber sale contract will not allow hauling on weekends or any major holiday throughout the primary recreational season. Signs will be posted advising people of the presence of log trucks and heavy equipment in the area.

C. Air Quality

Harvest operations should not impact air quality; however, slash disposal operations have the potential for negative impact. During burning, weather and smoke dispersal conditions will be monitored and restricted as necessary to maximize smoke dispersal. The Maggie Creek Forest Protective District will make proper notification and conduct burning operations as outlined in the North Idaho Cooperative Smoke Management Plan.

D. Cultural Resources

The Idaho State Historical Society was contacted to review their records for the presence of archeological or historic properties within the sale area. No historic cultural resources have been identified within the sale area. In the event of discovering any cultural resources during harvest or road construction activities, the site will be protected and the Idaho State Historical Society will be notified.

E. Leases

No current leases exist within the sale area.

F. Roads and Traffic Patterns

Traffic along the FS 652 Road, FS 470 Road and Selway River County Road is expected to increase during hauling operations. Hauling will only be allowed during the week and until noon on Friday. Hauling will not be allowed on holidays that may fall during the week to reduce the impacts to recreational traffic. Alternative hauling operations will require written approval by the state.

G. Site Productivity

Timber growth, resistance to insects, disease resistance and fire resistance will be enhanced through active forest management. There will be minor impacts to site productivity from skid trail construction. Use of these trails will only be at times when soil compaction can be kept to a minimum.

H. Water Quality

Activity on this sale may create slight short-term adverse impacts to water quality. Mineral soil will be exposed through road work and harvest activities. The six Class II streams near the sale area have been excluded from harvest to provide stream shading and protect overall stream quality. The remaining Class II stream within the sale area will be protected in accordance the Idaho Forest Practices Act. As outlined in the erosion control section, measures will be taken to minimize or mitigate the potential for stream sedimentation. Road surfacing and road drainage features will minimize road tread erosion. Grass seeding performed by the State will help to stabilize exposed road surfaces both in the short term and long term.

The IDL Fish Biologist and, the IDL Hydrologist provided water quality and fish habitat observations and recommendations for forest management activities to Maggie Creek Area staff.

I. Wildlife and Fisheries

Impact on wildlife should be minimal. The sale area supports a variety of wildlife, but its primary value lies in elk and white-tailed deer winter range. A number of these larger ungulates utilize this area during the winter because of its relatively low elevation.

Impact on fisheries should be minimal. All streams near the sale area have been determined to be Class II, except for Swiftwater Creek, which is a Class I stream and outside the designated sale area. All harvesting activities will be kept out of stream protections zones except for limited harvest associated with road construction.

EXHIBIT D

USFS BURNED-AREA REPORT

- N. Total Acres Burned (as of 08/24/2014): 8498 acres
NFS: 8326 State: 320 Private: 158

O. Vegetation Types: The habitat groups found within the fire consist of groups 5 and 6 from the Nez Perce-Clearwater National Forest Target Stand Groups. The habitat types in Group 5 (moderately cool and moist western red cedar) are characterized by mixed species stands of western red cedar, grand fir, and Douglas fir, with diverse shrub and forb understories. Western white pine, larch, and ponderosa pine are less frequent components. Cedar/Clintonia is the habitat type in this group most frequently found. These habitat types are common in the western portion of the subbasin on lower slopes and northerly aspects, but become increasingly rare toward the headwaters. The habitat types in Group 6 (moderately cool and wet western red cedar) are characterized by stands of grand fir and western red cedar. Douglas-fir and western white pine are less common. They often have fern and herb understories. Cedar/lady fern is the habitat type most frequently found. These habitat types are generally limited to riparian areas along streams and moist lower slopes in the western part of the subbasin.

P. Dominant Soils: Soils on the Johnson Bar Fire can be characterized by three primary Landtypes. Landtypes 31C41, 31D48 and 61E48 are commonly found throughout the burned area. These landtypes are dominated by silt loam to loamy textures, with a strong volcanic ash influence, that have moderately deep to deep soil depths depending on slope and dominantly non-skeletal surface layers.

Q. Geologic Types: Geology across the Johnson Bar Fire is volcanic ash influenced loess over residuum weathered from granite, with frequent outcrops of gneiss and metasedimentary parent material, resulting in landslide prone deposits. Landforms are dissected, steep mountain ridges and stream breaklands with slopes averaging 65%.

R. Miles of Stream Channels by Order or Class:

National Forest

1st order 15.4 miles, 2nd order 4.0 miles, 3rd order 4.6 miles

S. Transportation System

Trails: National Forest	<u>2.3</u> miles	Other	<u>0</u> miles
Roads: National Forest	<u>16.0</u> miles	Other	<u>0</u> miles

PART III - WATERSHED CONDITION

A. Burn Severity (acres): 3,229 (low) 3,956 (moderate) 534 (high)

B. Water-Repellent Soil (acres): (sum of moderate + high) 4490

C. Soil Erosion Hazard Rating (acres): none (low) 108 (moderate) 8,329 (high and very high)

D. Erosion Potential: 2.0 tons/acre (average of first two years)

E. Sediment Potential: 945 cubic yards / square mile

PART IV - HYDROLOGIC DESIGN FACTORS

A. Estimated Vegetative Recovery Period, (years): 2-4 grass/shrubs 20-50 conifers

B. Design Chance of Success, (percent): 70

C. Equivalent Design Recurrence Interval, (years): 10

D. Design Storm Duration, (hours): 6 and 1 hr

E. Design Storm Magnitude, (inches): 0.9 (6hr), 0.7 (1hr)

F. Design Flow, (cubic feet / second/ square mile):	<u>30-100</u>
G. Estimated Reduction in Infiltration, (percent):	<u>60</u>
H. Adjusted Design Flow, (cfs per square mile):	<u>60-400</u>

PART V - SUMMARY OF ANALYSIS

A. Describe Critical Values/Resources and Threats:

The primary values at risk resulting from the Johnson Bar Fire are transportation infrastructure (roads, trails and culverts), water quality, native fisheries for ESA-listed species, native vegetation communities, and heritage sites.

Infrastructure: Due to fire effects, modest snowmelt and rain events are likely to cause extensive erosion and mass movement on steep hillslopes throughout the burned area. Additionally, reduced canopy interception, combined with lack of groundcover and hydrophobicity will cause increased runoff response compared to pre-fire conditions. Thus, streams in and downstream of the burned area are likely to generate higher stormflows in the first few years following the fire. Larger flow events in part are a function of increased surface runoff from bare hillslopes. Furthermore, burned and exposed soils are more susceptible to entrainment and transport to stream channels. This combination of increased runoff and greater susceptibility to erosion threatens transportation infrastructure. Transportation infrastructure is a widespread value at risk of damage from post-fire erosion and elevated peak flows below the Johnson Bar Fire, including roads, trails and culverts. A total of eight culverts on forest road 652 were found to be undersized for relatively high-probability post-fire runoff events and vulnerable to clogging from sediment and debris, given the position of the road at the foot of a steep face below drainages that generally burned at moderate to high severity. Elk City Creek is the only large stream among these drainages.

In addition to stream culverts, numerous ditch-relief culverts were judged to be at risk of plugging at the inlets due to existing oversteepened cut-slopes with burned hillslopes above. There is also a point on road 470 where the ditch is inadequately drained, and is at risk of failure due to elevated runoff from the burned hillslopes above. Aside from roads and culverts, no Forest Service structures were judged to be at risk from post-fire floods or debris flows.

Risk Assessment – Threats to Forest Service roads and associated structures

Probability of Damage or Loss: Very Likely – High potential of failure of road drainage due to post-fire flows.

Magnitude of Consequence: Major – Loss of FS infrastructure

Risk Level: Very High

There is one system Trail (Trail #706) that was impacted by the Johnson Bar Fire. This non-motorized trail accesses the "Hot Point" area travelling along a ridge line. The trail receives moderate use during the summer and fall hunting season. Trail maintenance is sporadic and Trail #706 is typically opened by the public due to its shorter length and in and out access with no loop opportunities. This trail was in fair to good shape prior to the fire. Considering the existing conditions found on the trails surveyed, trail damage and some off-trail erosion/sediment delivery to channels is likely to occur along identified sections of the trails with vulnerable conditions. Trail incision and complete loss of trail tread could occur, therefore resulting in loss of infrastructure possibly leading to significant repairs and costs to restore sections of trail. Loss of water control may lead to off-trail slope erosion and gully formation. Once active gullies develop, they can continue to erode during each storm event and contribute to downstream sedimentation and trail instability.

Risk Assessment – Threats to Forest Service trails and associated structures

Probability of Damage or Loss: Very Likely – High potential for erosion of surface tread and sediment delivery to streams. Soil deposition on trail surfaces from adjacent hillslopes may also occur.

Magnitude of Consequence: Major – Portions of Trail 706 are located on a very steep hillslope that has burned and has a high likely hood of trail tread damage accruing with future erosion and sedimentation.

Risk Level: Very High

Water quality: The streams in the burned area generally maintain good water quality. Erosion from steep burned hillslopes would compromise water quality through transport and depostion of fine sediment in important fishery streams. The elevated erosion and potential failures from roads and trails also compromise water quality. Treatments to improve road and trail drainage to withstand post-fire events will provide protection for water quality as well.

Fisheries: The lower Selway River and the Middle Fork of the Clearwater currently support runs of Snake River summer steelhead, spring and fall Chinook salmon, Columbia River bull trout, Pacific lamprey, westslope cutthroat trout, rainbow trout, mountain whitefish, as well as dace, sculpin and suckers. Steelhead and bull trout designated Critical Habitat and salmon Essential Fish Habitat are located within or near the Johnson Bar fire. Increased sediment inputs over the next few years due to post fire effects could eliminate viable spawning habitat until many of these fine sediments are transported downstream. Although these effects to spawning habitat are short term they could have lasting impacts to steelhead productivity in Goddard Creek. Juvenile steelhead and Chinook use many of these lower tributaries in the spring and summer to avoid high spring flows and warm stream temperatures on the mainstem MF Clearwater and Selway rivers so, there may also be negative direct impacts as well as loss of some rearing habitat for these juvenile fish. The predicted pulses of sediment or debris torrents within the headwater of these tributaries could be detrimental to these populations, altering rearing and spawning habitat and even impeding passage/movement in some areas. Road treatments could greatly lessen post fire effects to these fish.

Risk Assessment – Threats to fisheries communities due post-fire erosion events.

Probability of Damage or Loss: Very Likely - The probability of increased fine sediment or post fire debris flows reaching fish bearing streams and adversely affecting habitat or directly impacting native fish is likely

Magnitude of Consequence: Major – Damage to critical fisheries resources resulting in considerable or long term effects.

Risk Level: High

Native vegetation/Soil Productivity: Native vegetation communities and soil productivity are at risk from rapid expansion of noxious weeds from existing populations in the burned area. Recent weed inventories conducted within the Moose Creek Ranger District have identified a number of Idaho noxious and invasive weeds occurring within the perimeter of the Johnson Bar Fire. Inventories have found Spotted knapweed (*Centaurea maculosa*), and Canada thistle (*Cirsium arvense*) within the fire perimeter. During the BAER team evaluation of the Johnson Bar Fire, scattered populations of Spotted knapweed and Canada thistle were found along forest roads 470, 470A, 470B, 470C, 470D, 1121, 9701, 651, 289, 1119, 1119A, and 9723.

Fire intensities were generally Low to Moderate, with High intensity burns occurring on the face below Hot Point. Most grasses and shrubs in or near infested sites should regenerate because roots and crowns remained intact. However, highly susceptible habitat, existing infestations and exposed mineral soils along roads, trails, fire lines and camps greatly increase the risk of invasive weed spread as a result of fire disturbance. The risk of weed spread has increased within the roaded portion of the Johnson Bar Fire due to the interaction of the weed expansion factors.

Most of the previously identified weed infested sites within the fire were either burned or occur adjacent to burned areas. The susceptible habitats within the Johnson Bar Fire contain known infestations of Spotted knapweed and Canada thistle. Small spot infestations of spotted knapweed are scattered along forest roads 470ABCD, 1121, 9701, 289, 1119A, & 9723 which run through the fire perimeter. Other discrete or small populations were identified along forest roads 651 & 1119 leading into the burned area and at Johnson Bar Campground. Spotted knapweed and Canada thistle are invasive weeds that can readily out-compete native plants and dominate disturbed sites. Primary risk comes from the existing infestations within and adjacent to burned area along with introduction of noxious weed seed from firefighting

resources. Invasive species detection surveys and treatment within and adjacent to the burned area is warranted.

Risk Assessment – Threats to native plant communities due to the establishment or spread of noxious weeds.

Probability of Damage or Loss: Very Likely - Based on moderate and high burn severity and proximity to known weed infestations.

Magnitude of Consequence: Major – Loss of native plant communities and spread of noxious weeds.

Risk Level: Very High

Soils in the Johnson Bar burn area consist primarily of a 6-10 inch volcanic ash mantle over soils derived from metasedimentary geology. The predominant rock type in the fire area was quartzite with inclusions of gneiss and schist. The ash mantle on this sites is the primary source of the ecosystem productivity. An analysis was completed showing the post-fire erosion risk for the fire. The following map shows the post-fire erosion risk created from looking at the burn severity and erosion hazards of the area.



Risk Assessment – Threats to native plant communities due to loss of site productivity through post-fire erosion.

Probability of Damage or Loss: Very Likely - Based on moderate and high burn severity and erosion risk of the ash mantle.

Magnitude of Consequence: Moderate – Loss of ecosystem productivity in the Selway River CFLRA.

Risk Level: Very High

Heritage: After a review of the Nez Perce National Forest Heritage Resource Department files, it was determined that 6 previously documented cultural resource sites were located within the Johnson Bar Fire perimeter and/or within APE on the NPNF. As a result of field review of the fire, an additional four resources were noted and visited for a total of 10 cultural sites within the Johnson Bar Fire APE. Fire activity varied where the sites are documented and does not appear to have negatively impacted any cultural site where they were burned over. Seven of the ten sites were revisited during the BAER field review process. Two sites were not accessible for field review due to continued fire activity which

prohibited allowing any personnel to be present in those locations. From site visits and reviewing the fire severity burned area reflectance classification map (BARC), 4 sites within the fire area were burned over while 6 sites were not burned. One site, Trail 706, was located both within and outside of fire burned locations. Fire severity at the 4 burned sites include: low and unburned, moderate, and high burn severities, generally involving grass, brush, and forested areas.

Of the four sites that were burned during this fire event, three have a low potential to be negatively impacted from increased erosional events due to loss of surface vegetation. The fourth site (a portion of Trail 706) has a moderate potential for disturbance through natural erosional processes. This potential impact is in the area where this site is within the high burn severity zone. All four sites have a slightly increased potential to be visited by recreationists in the area due to increased visibility. This may result in historic and/or prehistoric (Native American) artifacts being collected or removed from those sites due to the removal of surface vegetation at those locations where fire actually was present within the site boundaries. Only one site, Hot Point Lookout, possesses historic artifacts visible on the ground surface due to the high fire severity in this location. In most other instances, the fire quickly moved through the areas within and adjacent to known sites, leaving the duff layer mostly intact and scorched.

Risk Assessment – Threats to historical and cultural resources within the fire area.

Probability of Damage or Loss: Possible - Based on moderate and high burn severity and proximity to known trail.

Magnitude of Consequence: Moderate – Loss of some artifacts due to increased visibility and visitor use.

Risk Level: Intermediate



Moderate severity burn on ridge along the Burned Creek watershed.

B. Emergency Treatment Objectives:

Roughly one-half of the burned area was of moderate to high severity. However, much of more the burned area is on steep hillslopes with highly erosive soils. Thus, even low burn severity slopes devoid of overstory canopy or ground cover are at heightened risk of severe erosion and greatly increased runoff. Furthermore, most of the burned area on NFS land is characterized as landslide prone. In this landscape, burn severity alone is an inadequate indicator of post-fire erosion and runoff risk.

Emergency treatment objectives are to protect roads, trails and culverts susceptible to damage from erosion and elevated runoff within and immediately downstream of the burned area, and to prevent the expansion of noxious weeds in areas burned in the fire, while providing for BAER implementation worker safety.

Drainage on roads and trails will be improved to allow for discharge of elevated runoff in a manner that protects both the travel surface and stream water quality and aquatic habitat. Undersized culverts identified on FS road 652 will be upgraded to pass the post-fire 10-year (10% exceedance probability) event or removed. Known populations of noxious weeds will be treated in the first growing season following the fire, allowing for a more robust native vegetation recovery.

C. Probability of Completing Treatment Prior to Damaging Storm or Event:

Land 70% Channel N/A Roads/Trails 70% Protection/Safety 90%

D. Probability of Treatment Success

	Years after Treatment		
	1	3	5
Heritage	na	na	na
Weed treatment	50	50	50
Channel	na	na	na
Roads/Trails	70	80	90
Protection/Safety*	90	90	80

E. Cost of No-Action (Including Loss): >\$500,000

The potential cost of no action includes the failure of culverts/stream crossings on major roads in the burned area, severe erosion damage on several public roads needed for FS and public access, entrainment and deposition of road sediment in important fishery streams, and erosion damage and failure of trails. The cost of repairing roads, trails, and stream crossings would most likely exceed the cost of the selected alternative. The value of critical habitat for three separate ESA-listed fish species, as well as species of concern, cannot easily be quantified, but would likely far exceed the cost of sediment-mitigation measures proposed here. The value of protecting the ecological integrity and soil productivity of the burned area from noxious weed infestation likely exceeds the cost of weed treatment and monitoring, although this too was not quantified.

F. Cost of Selected Alternative (Including Loss): ~\$124,000

In accordance with the revised Forest Service manual, the risk matrix below, Exhibit 2 of Interim Directive No.: 2520-2012-1, was used to evaluate the Risk Level for each value identified during the Sheep fire BAER assessment. Only treatments that had a risk of Intermediate or above are recommended for BAER authorized treatments.

Probability of Damage or Loss	Magnitude of Consequences		
	Major	Moderate	Minor
	RISK		
Very Likely	Very High weeds, roads, trails	Very High soil productivity	Low
Likely	Very High	High fisheries	Low
Possible	High	Intermediate heritage	Low
Unlikely	Intermediate	Low	Very Low

G. Skills Represented on Burned-Area Survey Team:

☒ Hydrology ☒ Soils ☒ Range ☒ Weeds

<input type="checkbox"/> Forestry	<input type="checkbox"/> Wildlife	<input checked="" type="checkbox"/> Fire Mgmt.	<input checked="" type="checkbox"/> Engineering
<input type="checkbox"/> Contracting	<input type="checkbox"/> Ecology	<input type="checkbox"/> Botany	<input checked="" type="checkbox"/> Archaeology
<input checked="" type="checkbox"/> GIS	<input type="checkbox"/> Air Quality	<input type="checkbox"/> Research	<input checked="" type="checkbox"/> Fisheries
<input checked="" type="checkbox"/> Recreation			

Team Leader: Cara Farr

Email: clfarr@fs.fed.us Phone: 208-893-4045 FAX: 208-983-4099

H. Treatment Narrative:

Land Treatments:

Noxious weed control with herbicides is recommended for new populations of current and new invader weed species within the Johnson Bar Fire. Herbicide applications will follow the requirements and mitigation outlined under the latest NEPA and Biological Assessment for listed fish species. A weed management strategy within the Clearwater River Basin Weed Management Area, in interagency cooperative, is currently in place. Areas infested with noxious weeds will be treated within the burn perimeter to reduce the probability of spread into uninfested burned areas. BAER funding is only available for the first year of the treatments (2015). In 2015, existing weed populations will be treated. If subsequent monitoring identifies weeds populations not effectively removed with initial treatment, additional treatment will be planned, and funds requested in an interim request. Many of the weeds are difficult to find the first year after a fire, so the acres of known populations within the burn perimeter will be covered twice in 2015 to ensure that all weeds are located and treated effectively. Other funding sources will be sought in out-years to treat any expansions of noxious weeds identified in subsequent monitoring. All of this work will be accomplished using ground-based equipment. Treatment will include the following:

- Mix of backpack/truck spraying and hand-pulling, as appropriate, in spring/early summer 2015 before weeds begin to seed
- Using approved herbicides and application techniques based on weed species, topography and environmental factors, in compliance with NPNF Weeds EIS.

Hillslope treatments (e.g. mulching) were considered in order to protect soil productivity and critical fishery habitat.

Channel Treatments: No channel treatment prescribed at this time.

Roads and Trail Treatments:

Road treatments will be targeted at effectively draining anticipated increased runoff in the first several years following the fire. Efforts will include clearing of clogged ditches and cross drain inlets and outlets, re-establishment of damaged/non-functional ditch, as well as replacement of burned drainage structures and cross drains. Armored dips or sags will be installed at most stream crossings in order to protect the road prism in the event of a flood event that overtops the road. Work will be done on open roads within the burned area that were judged to be at high risk of elevated post-fire runoff. Without proposed treatments, overland flow and erosion will likely damage the roads as well as transport sediment to streams, impacting aquatic habitat. In the steep terrain and granitic soils of the burned area, roads would likely be heavily eroded in the first year following the fire in their current condition.

All of the culverts determined to be undersized for the post-fire design event are recommended for removal. Except for Elk City Creek, the streams draining under road 652 transition at the road from steep burned ground to a low gradient terrace above the Selway River. The burn severity combines with this geomorphic setting to leave the culvert inlets vulnerable to plugging from sediment and debris deposition, regardless of culvert size. The crossings needed for private and state land access as well as FS management access should be improved with hardened fords—preferably using pre-cast concrete planks with a rock/gravel subgrade. The culvert at Elk City Creek should be removed and the crossing location restored to natural contours.

Trail work will treat the segments of the trail system within the burned area that is at high risk of damage from elevated post-fire runoff and erosion. Treatments will consist of replacement of burned drainage

structures, installation of new drainage structures in anticipation of greater runoff and erosion, cleaning of existing intact drainage structures, and spot outsloping to improve trail drainage especially on steep slopes and near streams. Visitor warning signs will also be posted at trailheads.

Protection/Safety Treatments:

To provide for worker safety during implementation of trail drainage improvements, hazard trees along the trails mentioned above will be removed. Roads have generally been snagged as part of suppression efforts.

I. Monitoring Narrative:

(Describe the monitoring needs, what treatments will be monitored, how they will be monitored, and when monitoring will occur. A detailed monitoring plan must be submitted as a separate document to the Regional BAER coordinator.)

Monitoring of road and trail treatments will occur during and after implementation in 2014-15 to ensure that treatment objectives are met. Hillslope and road treatments will be monitored again after snowmelt and during the summer to evaluate effectiveness. In October 2014, one or more tipping-bucket rain gauges will be installed to monitor precipitation in the drainage. The precipitation data will provide useful information when compared to assessments of treatment effectiveness following subsequent precipitation and runoff events.

In 2015 all of the known areas of infestation will be re-surveyed by NP-CNF Weeds staff. Any noxious weed populations not effectively treated during initial treatment efforts will be targeted for additional herbicide application.

VI – Emergency Stabilization Treatments and Source of Funds

Line Items	Units	Unit Cost	NFS Lands		Other	Other Lands				All Total
			# of Units	BAER \$		# of units	Fed \$	# of Units	Non Fed \$	
A. Land Treatments										
Weed treatment & assessment	acre	325	70	\$22,750						
Subtotal Land Treatments				\$22,750	\$0		\$0		\$0	\$0
B. Channel Treatments										
Subtotal Channel Treat.				\$0	\$0		\$0		\$0	\$0
C. Road and Trails										
x-drain inlet drop structure	each	650	60	\$39,000						
culvert removal/ install concrete ford	each	7,000	4	\$28,000						
culvert removal/reshape banks, grade control	each	4,000	4	\$16,000						
road stormproofing (outslope, drainage, seed)	mile	2,500	1	\$2,500						
FS pipe gate installed	each	3,500	1	\$3,500						
new 18" CMP cross drain on 470	each	2,600	1	\$2,600						
Trail drainage structures	each	115	10	\$1,150						
Trail drainage clean out	each	30	10	\$300						
Trail spot stabilization	mile	500	1.5	\$750						
Trail tread outslope/drainage	mile	500	1.5	\$750						
Culvert upgrade, road 9303	each									
Subtotal Road & Trails				\$94,550	\$0		\$0		\$0	\$0
D. Protection/Safety										
Hazard tree removal	mile	1,500	1.5	\$2,250						
Trail warning signs	each	50	10	\$500						
Subtotal Structures				\$2,750	\$0		\$0		\$0	\$0
E. BAER Evaluation										
Assessment					\$15,000		\$0		\$0	\$0
Subtotal Evaluation					\$15,000		\$0		\$0	\$0
F. Monitoring										
				\$0			\$0		\$0	\$0
Trail treatment effectiveness	day	250	5	\$1,250						
Road treatment effectiveness	day	280	10	\$2,800						
Subtotal Monitoring				\$4,050	\$0		\$0		\$0	\$0
G. Totals										
Previously approved				\$124,100	\$15,000		\$0		\$0	\$0
Total for this request				\$124,100						

PART VII - APPROVALS

1. _____ 09/22/2014
Rick Brazell, Nez Perce-Clearwater NF Forest Supervisor Date

2. _____ /2014
Region 1 Regional Forester

HYDROLOGY REPORT—JOHNSON BAR FIRE BURNED AREA EMERGENCY RESPONSE

9/14/2014

DAVE CALLERY (HELENA NF HYDROLOGIST), TAYLOR GREENUP AND DREA TRAEUMER (NEZ PERCE-CLEARWATER NF HYDROLOGISTS)

BACKGROUND/FIRE DESCRIPTION:

The Johnson Bar Fire on the Moose Creek District of the Nez Perce-Clearwater National Forest was ignited by lightning on August 3rd, 2014. Following a period of active fire behavior, expansion slowed considerably. At the time of BAER field assessment, the fire had burned roughly 8,800 acres. As of 9/12/2014, the fire was estimated to have burned roughly 9,300 acres, and will likely be fully contained only with the onset of winter conditions. The fire burned across portions of four sixth hydrologic unit code (6th-HUC) watersheds, and covered primarily National Forest land as well as some private land and land managed by the state of Idaho.

Table 1. Sixth-HUC drainages with burned area in the Johnson Bar Fire as of 9/2/14.

6 th -HUC	6 th -HUC name	Burned acres	Total acres
170603020405	Goddard Creek - Selway River	7,209	22,714
170603040201	Big Smith Creek - Middle Fork Clearwater River	1,297	28,879
170603020404	O'Hara Creek	290	37,880
170603030708	Glade Creek-Lochsa River	7	21,068
	Total area	8,803	

The physiography of the burned areas is characterized by steep, dissected uplands with granitic and meta-sedimentary parent materials. Major streams draining the burned area include Goddard Creek, Swiftwater Creek, Elk City Creek, Burned Creek, O'Hara Creek and other smaller tributaries of the Selway River. Excluding the small tributaries crossing road 652, these streams provide habitat for ESA-listed Chinook salmon, steelhead, and bull trout, as well as westslope cutthroat trout. The fires burned through a mix of steep western red cedar and grand fir uplands, generally leaving a mosaic pattern of burned and unburned landscape. Due primarily to steep slopes and erodible soils, large areas of the burn were judged to have a high erosion risk in the first post-fire year.

ASSESSMENT OF VALUES AT RISK:

A common cause of resource damage following widespread wildfire is high peak flow events and widespread hillslope erosion. In combination, this can lead to sediment- and debris-laden stream flow and often debris torrents. These events threaten infrastructure such as roads, culverts, buildings, and other developments in valley bottoms, as well as resources such as heritage sites, critical aquatic habitat, water quality, and soil productivity.

Transportation infrastructure is a widespread value at risk of damage from post-fire erosion and elevated peak flows below the Johnson Bar Fire, including roads, trails and culverts. A total of eight culverts on forest road 652 were found to be undersized for relatively high-probability post-fire runoff events and vulnerable to clogging from sediment and debris, given the position of the road at the foot of

a steep face below drainages that generally burned at moderate to high severity. Elk City Creek is the only large stream among these drainages. The open-bottom concrete box culvert at road 652 and Swiftwater Creek was estimated to be large enough to convey at least the 4% probability (25-year return interval) post-fire flow event. Although over 2,900 acres burned in the Goddard Creek drainage, no infrastructure values were judged to be at risk from post-fire conditions. Stream culverts on other roads (e.g. 470, 651, 9701) were not judged to be at risk from elevated post-fire runoff events primarily because the drainages had little or no area burned at moderate or high severity.

Road 652 is a Forest Service (FS) road that provides access to the lower Goddard Creek drainage on the national forest, as well as private property (Sutter, Wright and Neal parcels) and a state parcel. The FS has an easement and maintenance responsibility through the private parcels, but not on the state parcel. Three of the undersized culverts on road 652 are on the state parcel—ranger district staff and the BAER team have discussed recommended treatments for these crossings with a representative of the Idaho Division of Lands (IDL).

In addition to stream culverts, numerous ditch-relief culverts on portions of Roads 671, 9701, and 470 were judged to be at risk of plugging at the inlets due to existing oversteepened cut-slopes with burned hillslopes above. There is also a point on road 470 where the ditch is inadequately drained, and is at risk of failure due to elevated runoff from the burned hillslopes above. Aside from roads and culverts, no Forest Service structures were judged to be at risk from post-fire floods or debris flows.

Two developed private properties are potentially at risk from post-fire flooding and debris torrents—both on forest road 652. The first property (Sutter) sits above Swiftwater Creek at the junction of road 470, and is at an elevation high enough above the stream that it is unlikely to be affected by elevated post-fire flooding. However, the home and outbuildings on this property are adjacent to a steep hillslope which burned with mixed severity impacts. While the contributing area to the hillslope face above the home is not large, a large precipitation or rain-on-snow event could potentially result in hillslope failure or sediment-laden runoff and sediment deposition around the structures. The second property (Wright) is downslope from road 652, partly below the small drainage identified in this analysis as *652-per4*. This steep drainage burned with moderate to high-severity effects to soils over at least 40% of its area, and is likely to generate sediment-laden runoff or even hillslope failure on the steep face above the road and culvert. Immediately below the culvert is an instream intake structure and storage tank for a water system, and immediately above the channel is a large propane cylinder. An outbuilding is within 30 feet of the channel. The house on this property is far enough from any existing channel and from the steep hillslope face that it would most likely avoid any flooding or sediment deposition from a post-fire runoff event. The Ranger District and BAER team should inform these landowners of the potential for post-fire damage to their property and provide contact information for Idaho County and Natural Resource Conservation Service (NRCS) representatives who may be able to assist in assessing specific risks and designing property protection measures.

Post-fire sedimentation of streams is also likely to impact aquatic habitat in the streams within and downstream of the burned area. Some of these streams serve as important habitat for species of concern, including Steelhead and Bull Trout—the fisheries report documents these concerns in detail.

Table 2. Soil burn severity area estimates for larger streams in the burned area (acres).

6 th -HUC drainage	Unburned	Low Severity	Moderate Severity	High Severity	Total
Goddard Creek	6,294	1158	1685	145	9,280
Swiftwater Creek	2,621	385	752	201	3,958
Elk City Creek	398	479	811	100	1,788
Burned Creek	6	24	88	60	177

POST-FIRE PEAK FLOW ESTIMATION:

The post-fire peak-flow estimation method used here requires an estimate of burn severity by area. Percentage of burned watershed acreage in unburned, low, moderate, and high severity classes were derived using satellite imagery, field assessments, and GIS data. A map derived from satellite infrared reflectance imagery provided data on post-fire changes in reflectance—a proxy for vegetation changes due to the fire. This dataset was adjusted based on field assessments by BAER-team soil scientists—details of this analysis are outlined in the soils report. Drainages above values at risk were delineated, and burn severity was calculated for each drainage.

Pre-fire runoff volumes were calculated using USGS regression equations through the StreamStats web interface (<http://water.usgs.gov/osw/streamstats/idaho.html>). In order to estimate post-fire storm-flow runoff, pre-fire values were modified using a factor proportionate to the area in the drainage burned at moderate to high severity. In past post-fire peak-flow analyses in this area, this method was judged to be more accurate than the commonly used curve number methodology (N. Gerhardt, pers. comm.). Nonetheless, this method is a simplistic approximation of complex natural and physical processes and should be used with an understanding of its limitations. For example, the USGS regression equations were developed using data from larger drainages. Thus, flow estimates in the smaller drainages evaluated in this analysis may under-represent actual conditions—this issue is taken into account in the recommendations.

The larger (>1700 acres) drainages had less than 25% area burned at moderate to high severity—a multiplier of 2 was used to estimate post-fire peak-flow values. For the smaller drainages (< 200 acres) a factor of 4 was used in order to account for the flashier post-fire response of smaller drainages as well as the additional uncertainty of using the USGS regression equations for watersheds of this size. The estimated ten-year return-period (10% exceedance probability) post-fire flow event is roughly equivalent to the 100-year return-period (1% exceedance probability) pre-fire event in these drainages (Table 3).

Table 3. Estimated pre- and post-fire peak flow magnitudes at eight culverts within or immediately downstream of the Johnson Bar Fire, as well as Goddard Creek (which has no developed crossing).

Crossing	Road	Area (ac)	Current capacity (cfs)	Pre-fire peak flow (cfs)			Post-fire peak flow (cfs)		
				50%	10%	4%	50%	10%	4%
Goddard Creek	--	9,280	--	234	460	596	280	551	714
Swiftwater Creek	652	3,958	628	101	203	265	125	252	329

Crossing	Road	Area (ac)	Current capacity	Pre-fire peak flow (cfs)			Post-fire peak flow (cfs)		
Elk City Creek	652	1,788	78	46	97	130	70	147	196
Burned Creek	652	177	8	6	14	21	36	92	134
652-per1	652	53	4	2	5	8	5	15	23
652-per2	652	26	6	1	3	5	1	3	5
652-per4	652	94	6	3	9	14	11	31	47
652-per5	652	9	6	1	1	2	1	1	2
652-per	652	26	6	1	3	5	3	8	13

CULVERT CAPACITY ANALYSIS:

Culverts within and near downstream of the burned area were evaluated for flow capacity in order to determine their ability to convey post-fire design flow events. Field data were collected on August 30 – September 1, 2014. Crews collected field data required for culvert hydraulic analysis as well as location information and photos. Following field data collection, crossing capacity was estimated using HY-8 Culvert Hydraulic Analysis Program (FHWA, 2010). Although a design culvert headwater/depth (HW:D) ratio should generally be less than 1.5, and ideally at or below 1.0 in a post-fire setting, the culverts were modeled using the entire depth of fill above the culvert (i.e. the capacity listed in Table 4 assumes a headwater elevation at the pour point (road surface or ditch)—thus, some culvert capacities include substantial head above the pipe. The analysis also assumed that inlets and outlets were clear of debris.

CAPACITY ANALYSIS RESULTS:

Eight culverts on tributaries to the Selway River on Forest Route 652 were judged to be undersized and at risk of failure from the post-fire peak-flow design event (Table 4).

Table 4. Existing flow capacities at eight culverts within and below the Johnson Bar Fire perimeter.

Site	Drainage area (ac)	Culvert diameter	Current capacity (cfs)	Post-fire 10% exc. peak flow (cfs)
Swiftwater Creek	3,958	8'x8' box	628	252
Elk City Creek	1,788	36"	78	147
Burned Creek* (state)	177	18"	8	92
652-per1*	53	12"	4	15
652-per2*	26	18"	6	3
652-per4*	94	18"	6	31
652-per5* (state)	9	18"	6	1
652-per*	26	18"	6	8

*Sediment and debris bulking at these locations is anticipated to increase the risk of failure above modeled post-fire flow estimates.

YEAR 1 POST-FIRE SEDIMENT DELIVERY ESTIMATION:

The National Soil Erosion Laboratory Water Erosion Prediction Project (WEPP) BAER Online GIS Tool (<http://129.101.152.143/baer/>) and the WEPP Erosion Risk Management (ERMIT) interface batch

spreadsheet beta ver. 2012.08.23 (<http://forest.moscowfsl.wsu.edu/fswepp/batch/bERMIT.html>) were used to predict sediment delivery for runoff events with 50%, 20%, and 10% exceedance probabilities (2-, 5-, and 10-yr return periods, respectively) for post-fire untreated and treated conditions. The WEPP BAER Online GIS Tool, with a 30-meter resolution digital elevation model, was used to: a) delineate stream networks and catchments above the specified outlet; b) break out delineated catchments into hillslopes for input to the ERMIT interface batch spreadsheet; and c) associate each hillslope with its burn severity by incorporating the Johnson Bar Burn Severity Map. The Parametric Regression on Independent Slopes (PRISM) model was used to adjust the 1,600-ft elevation Fenn Ranger Station climate to a more appropriate 3,090-ft elevation climate (the approximate average elevation of the Johnson Bar fire). The ERMIT interface batch spreadsheet, which uses WEPP technology to predict event sediment delivery from hillslopes for the first five years post-fire, was utilized to predict event sediment delivery for the first year post-fire for this analysis.

As with stream peak flow estimates, event sediment delivery predictions are estimates and not absolute values, and may be used comparatively. In this analysis, post-fire event sediment delivery predictions for untreated burned hillslopes and treated burned hillslopes with mulch application were compared. Erosion and sediment delivery in pre-fire conditions (assumed to be undisturbed forested hillslopes) is negligible; therefore, pre-fire sediment delivery was assumed to be zero. Road and streambank erosion were not considered in this analysis. ERMIT predictions (Table 5) suggest that mulch application of 0.50 or 1.0 tons/acre on all burned hillslope areas could reduce sediment delivery to streams by approximately 100% for the two-year return period (50% exceedance probability) runoff event, and by approximately 50% to 60% for the 10-year (10% exceedance probability) runoff event.

Treatment of all burned hillslopes with mulch would likely not be feasible or cost-effective. A more feasible approach could involve treatment of hillslopes predicted by ERMIT to have the greatest sediment delivery. Predicted sediment deliveries after targeted mulch treatments of 0.50 tons/acre to approximately 100-acres of the highest-contributing hillslopes within each drainage are presented in Table xx.

Table 5. ERMIT predictions for first-year post-fire event sediment delivery for untreated and treated hillslopes with 50% and 10% exceedance probabilities (2-yr and 10-yr return period, respectively).

Drainage	Area (ac)	Burned area (ac)	Post-fire 50% exc (tons)		Post-fire 10% exc (tons)	
			No treatment	Mulch, 0.5 ton/ac	No treatment	Mulch, 0.5 ton/ac
Goddard Creek	9280	44,860	21,930	6	44,860	21,930
Swiftwater Creek	3958	20,480	9,430	4	20,480	9,430
Elk City Creek	1788	17,440	8,150	3	17,440	8,150
Burned Creek	177	2,250	1,220	1	2,250	1,220
652-per4 (Wright)	94	80	90	0	730	300

RECOMMENDATIONS:

Runoff response to precipitation and rain-on-snow events will likely be robust through the remainder of 2014 and in the runoff season of 2015 due to reduced ground cover and canopy on steep hillslopes with erosion-prone soils. Although any hydrophobicity in the burned area should break down over the winter and spring, runoff response will likely remain elevated throughout the next three to five years.

Culvert capacity analysis was done with the assumption that culverts were clear of debris. Several of the culverts (including ditch-relief culverts) assessed within and below the burned area are partially plugged and will need to be cleared of sediment and debris as soon as possible before winter.

All of the culverts determined to be undersized for the post-fire design event are recommended for removal. Except for Elk City Creek, the streams draining under road 652 transition at the road from steep burned ground to a low gradient terrace above the Selway River. The burn severity combines with this geomorphic setting to leave the culvert inlets vulnerable to plugging from sediment and debris deposition, regardless of culvert size. The crossings needed for private and state land access as well as FS management access should be improved with hardened fords—preferably using pre-cast concrete planks with a rock/gravel subgrade. The culvert at Elk City Creek should be removed and the crossing location restored to natural contours. Ideally, the culverts evaluated in this analysis would be removed and fords installed in the fall of 2014. Replacement should be coordinated with local landowners as well as the state of Idaho.

In addition to higher peak flows in drainage bottoms, a burned landscape can also generate additional runoff from hillslopes onto roads and into ditches. To keep ditch-relief culvert inlets clear of debris and elevated post-fire sediment loads, drop structures should be installed (or caps installed on existing drop structures) at locations below burned areas on roads 470, 651, 9701, 9723B1. In order to mitigate potential post-fire road-surface erosion, surface drainage should be improved along road 652, and the surface stabilized with native grass seed. Additionally, a road gate should be installed on road 652 at the boundary between the Wright and state of Idaho parcels, in order to restrict access to and protect the BAER-improved stream crossings, as well as limit off-highway vehicle (OHV) access to and damage of newly accessible burned hillslopes. Lastly, easily accessible burned hillslopes which have lost all ground cover adjacent to the headwater forks of Elk City Creek (near Rd 9723B) would benefit from hand crew application of readily available branches and other material left from snagging in order to reduce the likelihood of erosion and culvert inlet clogging.

Aquatic habitat and fisheries values at risk may justify aerial mulching of moderate-to-high-severity burned areas—the aquatics report discusses this matter in detail. On the steeper slopes characteristic of these watersheds, the effectiveness of mulch may be reduced (and how well does the model account for this??). The BAER Treatments Catalog (Napper, 2006) suggests that mulch is effective on slopes greater than 60%—a substantial proportion of the Johnson Bar burned area is steeper than 60%.

Table 6. Treatment recommendations within the Johnson Bar Fire perimeter.

Treatment summary
Remove 5 stream culverts on road 652 at 652-per1, 652-per2, 652-per4, 652-per, Elk City Creek (fall 2014)

Install 3 hardened fords (pre-cast concrete plank) at 652-per1, 652-per2, and 652-per4 (fall 2014)
Restore banks/channel of Elk City Creek and small drainage (652-per) to natural contours/form, including grade control in Elk City Creek (fall 2014)
Stabilize surface of road 652 (outslope, surface drainage, seeding) (fall 2014–spring 2015)
Install culvert inlet drop structures (60) on roads 470, 651, 9701, 9723B1 below burned areas (fall 2014)
Clear debris from cross-drain culvert inlets/outlets and ditches below burned areas on 4.5 miles of roads 470, 651, 9701 and 9723B. (fall 2014–spring 2015)
Install gate on road 652 at south end of Wright property to restrict access to burned area by ATVs (fall 2014)
Potential aerial mulching on hillslopes with moderate-to-high burn severity in high-value fishery drainages (fall 2014)
Add surface cover protection to burned hillslope areas adjacent to the forks of upper Elk City Creek (fall 2014–spring 2015)

REFERENCES:

FHWA, 2010. Culvert Hydraulic Analysis Program, Version 7.2. Federal Highway Administration.
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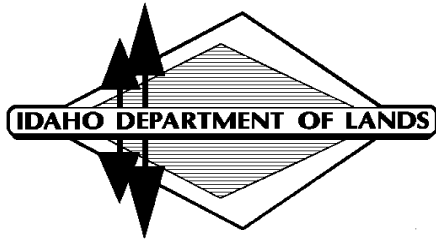
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SCS, 1973. Engineer Field Manual for Conservation Practices. Chapter 2: Peak Rates of Discharge for Small Watersheds. US Department of Agriculture, Soil Conservation Service.

USGS. 2014. StreamStats for Idaho. U.S. Geological Survey.
<http://water.usgs.gov/osw/streamstats/idaho.html>.

EXHIBIT E

**NOVEMBER 12, 2014 MEMORANDUM RE OBSERVATIONS AND
RECOMMENDATIONS FOR SELWAY BURNED AREA
REHABILITATION/MITIGATION**



IDAHO DEPARTMENT OF LANDS

3284 W. Industrial Loop
Coeur d'Alene, Idaho 83815
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Fax: (208) 769-1524

MEMORANDUM

TO: Zoanne Anderson, Area Manager

FROM: Chris Tretter, Fish Biologist *CT*
Joel Clark, Hydrologist *JC*

DATE: November 12, 2014

SUBJECT: Observations and recommendations for the Selway Salvage burned area rehabilitation/mitigation

Introduction

On September 23, 2014, we visited a portion of state endowment lands that burned during the Johnson Bar Fire. A timber salvage sale (CR-42-5085) is planned for this burned area. We were asked to provide observations and recommendations for maintaining water quality and fish habitat. Joel and I were accompanied by engineering geologist Scott Marshall, resource specialist Nick Carter, and USFS Wild and Scenic River administrator Heather Berg. The location of the proposed salvage sale area is shown in Figure 1 along with a burn severity index provided by the US Forest Service.

Observations

There are no Class I (fish-bearing) streams within the sale area. During the visit, we were impressed with the amount of woody debris and green vegetation left on the ground after the fire, especially within the draws draining Class II streams from the sale area (Photographs 1 and 2). The adjacent hill slopes are relatively steep, ranging from 40 to 70%. Burn severity on these slopes ranged from low to moderate.



Photograph 1



Photograph 2

Discussion and Recommendations

The streams draining the sale area flow into the Selway River which is known to support populations of bull trout (*Salvelinus confluentus*) and Steelhead (*Oncorhynchus mykiss*). Both of these fish populations are listed as Threatened under the Endangered Species Act, and the Selway River is listed as critical habitat essential for the continued existence and recovery of these threatened populations. Threats to fish populations resulting from salvage operations include any actions that might increase water temperatures, or deliver large amounts of sediment to the Selway River.

To reduce these potential threats, we recommend two mitigation strategies to be implemented during harvest operations. The first is to maintain vegetated buffers adjacent to all Class II streams draining the sale area. These buffers will provide shade to maintain cool water temperatures, large woody debris for stream channel stability, and serve as a filter strip to remove sediment delivered from upslope areas. Secondly, we have observed that slash spreading on moderate to severely burned slopes is a very effective technique for reducing soil erosion. For this particular salvage operation, slash scattering will be most effective on moderately burned slopes where the fire consumed most of the vegetation and downed woody material. Because the fire intensity did not directly kill and consume many of the trees the slash produced from harvest may exceed safe levels. Therefore, we recommend that the forester-in-charge be present during harvest operations to direct the scattering of slash in areas where ground protection is most needed but not produce excessive amounts of slash remaining across the harvest area.

Please feel free to contact us if you have any questions or comments.

cc: David Groeschl, AD Forestry and Fire
Kurt Huston, OC South
Bob Helmer, BC-FM
Ara Andrea, BC-TS
Michelle Andersen, PM-TS
Pat Seymour, PM-ES
Nick Carter, Resource Specialist

File

Figure 1. Location of the Selway Salvage Sale area, and burn severity.

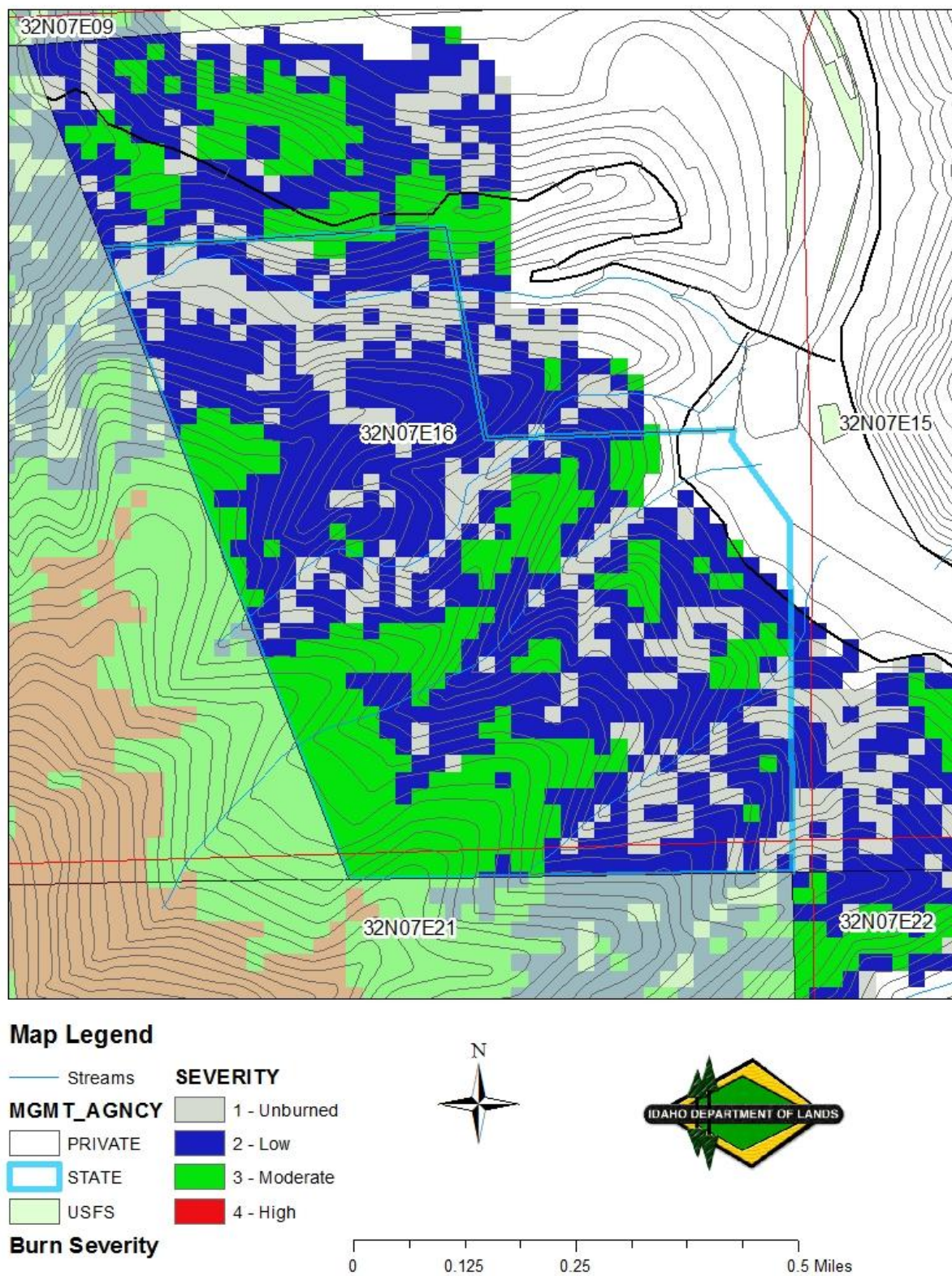
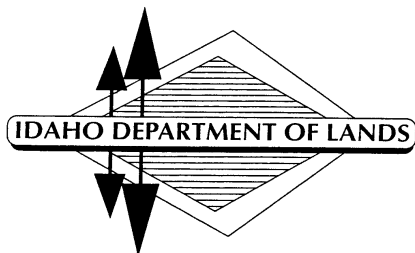


EXHIBIT F

**OCTOBER 23, 2014 MEMORANDUM RE SELWAY
SALE CR-42-5085, SLOPE STABILITY – OBSERVATIONS,
RISK ASSESSMENT AND RECOMMENDATIONS**



Coeur d'Alene Offices

3284 W. Industrial Loop,
Coeur d'Alene, ID 83815
Telephone (208) 769-1525

MEMORANDUM

TO: Zoanne Anderson, Maggie Creek Area Manager

FROM: Scott A. Marshall, Engineering Geologist *AM*

DATE: October 23, 2014

SUBJECT: Selway Sale CR-42-5085, Slope Stability - Observations, Risk Assessment and Recommendations

INTRODUCTION

On September 23, 2014, I conducted a field visit to the Johnson Bar Fire located on the west side on the Selway River in the wild and scenic corridor to make observations and provide recommendations regarding slope stability. The proposed timber salvage sale known as Selway CR-42-5085 is located in Section 16 of T32N, R7E (Figure 1). I was accompanied in the field by Resource Specialist Nick Carter, Fisheries Biologist Chris Tretter and Forest Hydrologist Joel Clark. The area wishes to build some new road, utilize some existing USFS roads, and open some existing roads so they may conduct a salvage sale. I was asked to analyze the parcel with regard to the road and timber harvest with emphasis on short and long term slope stability.

CLIMATE

Climate is mild during summer when temperatures tend to be in the 60's and very cold during winter when temperatures tend to be in the 30's. The warmest month of the year is August with an average maximum temperature of 80 degrees Fahrenheit, while the coldest month of the year is January with an average minimum temperature of 20 degrees Fahrenheit. Temperature variations between night and day tend to be relatively big during summer with a difference that can reach 32 degrees Fahrenheit, and fairly limited during winter with an average difference of 15 degrees Fahrenheit. The annual average precipitation is about 24 inches. Rainfall is fairly evenly distributed throughout the year. The wettest month of the year is May.

SLOPE STABILITY

Geologically, the subject area consists of Precambrian, high-grade metamorphic rock; metasediments; kyanite-sillimanite schist, and micaceous quartzite. The rocks are overlain by a varying thickness (estimated at 1-3 feet) of ash rich surficial colluvial soils. The surficial soils generally consist of silty sand to sandy silt with a few resistant

boulders. There are a few areas where the soil horizon is relatively thin and rock outcrop is evident.

Burn severity affects the erosive rating of the soils, and erosive soils can be triggers to shallow landslides under post fire conditions. Figure 2 is a burn severity map, which is a product of the Forest Service Burned Area Report dated 9/22/2014. It shows that most of the Endowment ground is low fire intensity with some moderate at higher elevations.

I analyzed the area under post fire conditions using the SHALSTAB slope stability software program; it evaluates the probability of shallow landslide given slope steepness and shape. Specific soil parameters are input and a shallow landslide hazard rating is generated (Figure 3). This is a more precise tool for evaluating shallow slope stability with the dark red and red areas indicating the highest hazard ratings.

I reviewed aerial photographs from 2013, 2010, 2009, and 2004 of the area looking for indications of historic landslides. I did not observe any significant landslides on Endowment ground but I did observe a significant shallow landslide off site on USFS ground upriver from the site. It appears to have occurred about 2004 and this observation indicates shallow landslides can occur in this landform type.

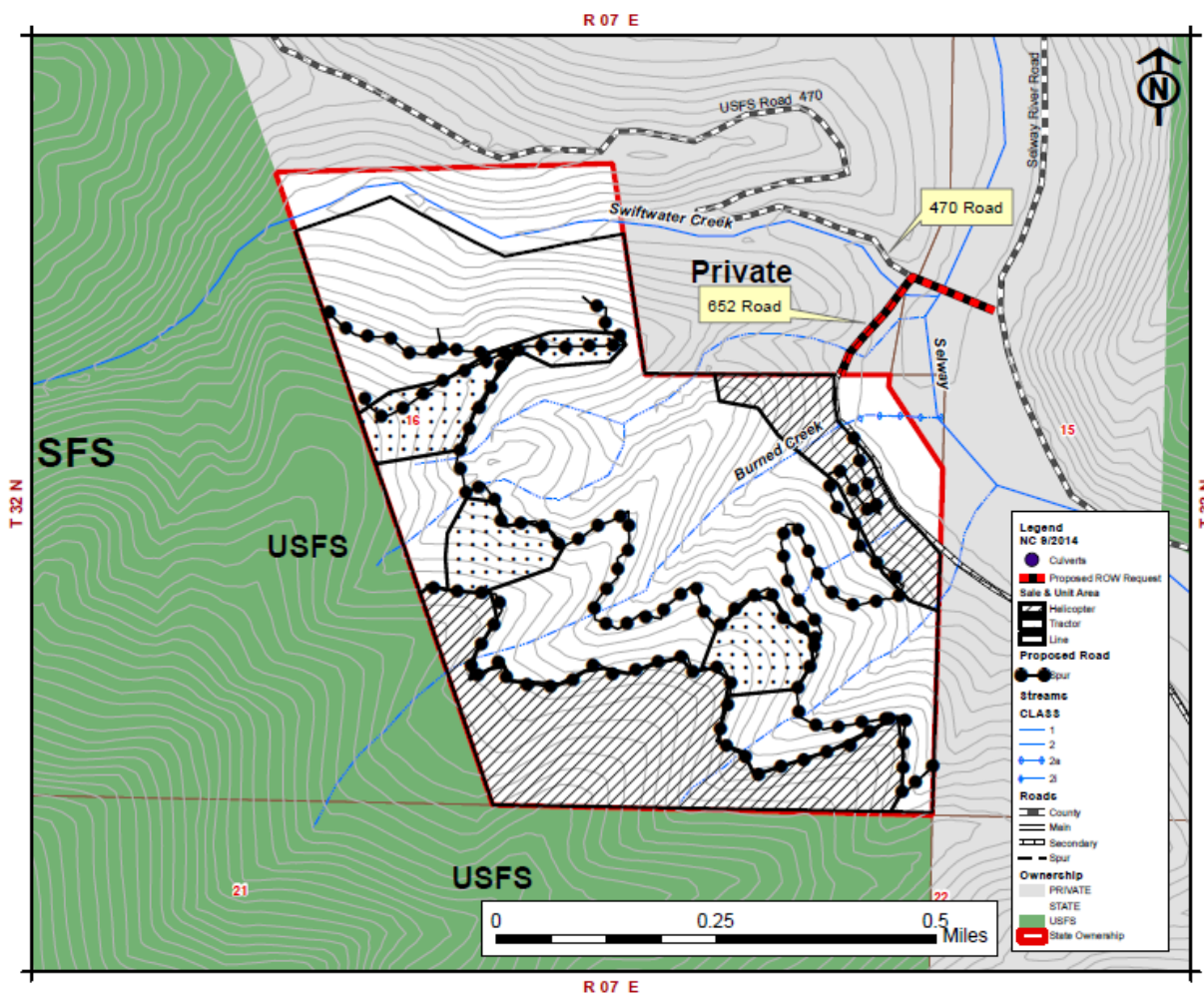


Figure 1. Sale Map showing harvest units, ownership, and roads.

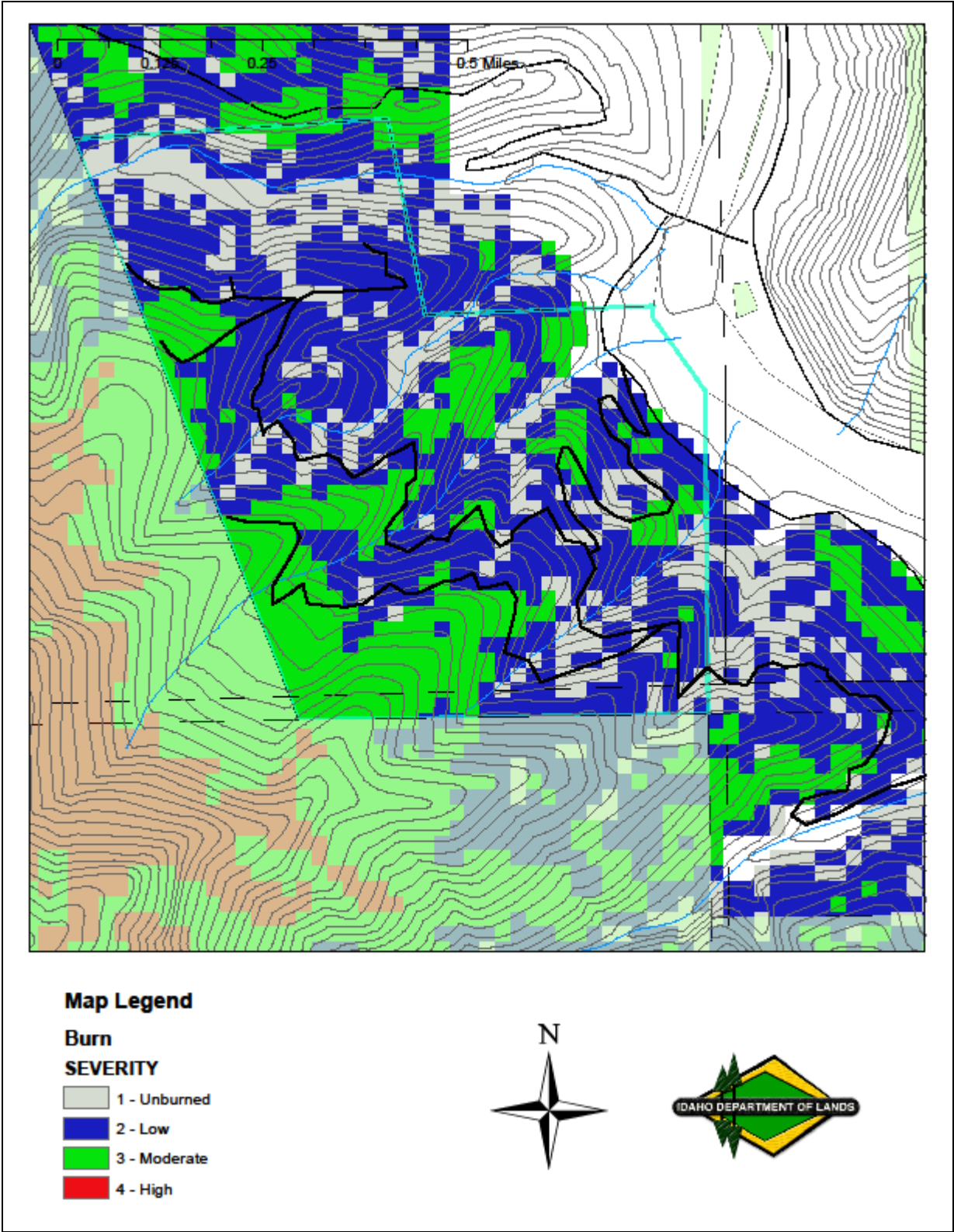


Figure 2. Burn Severity.

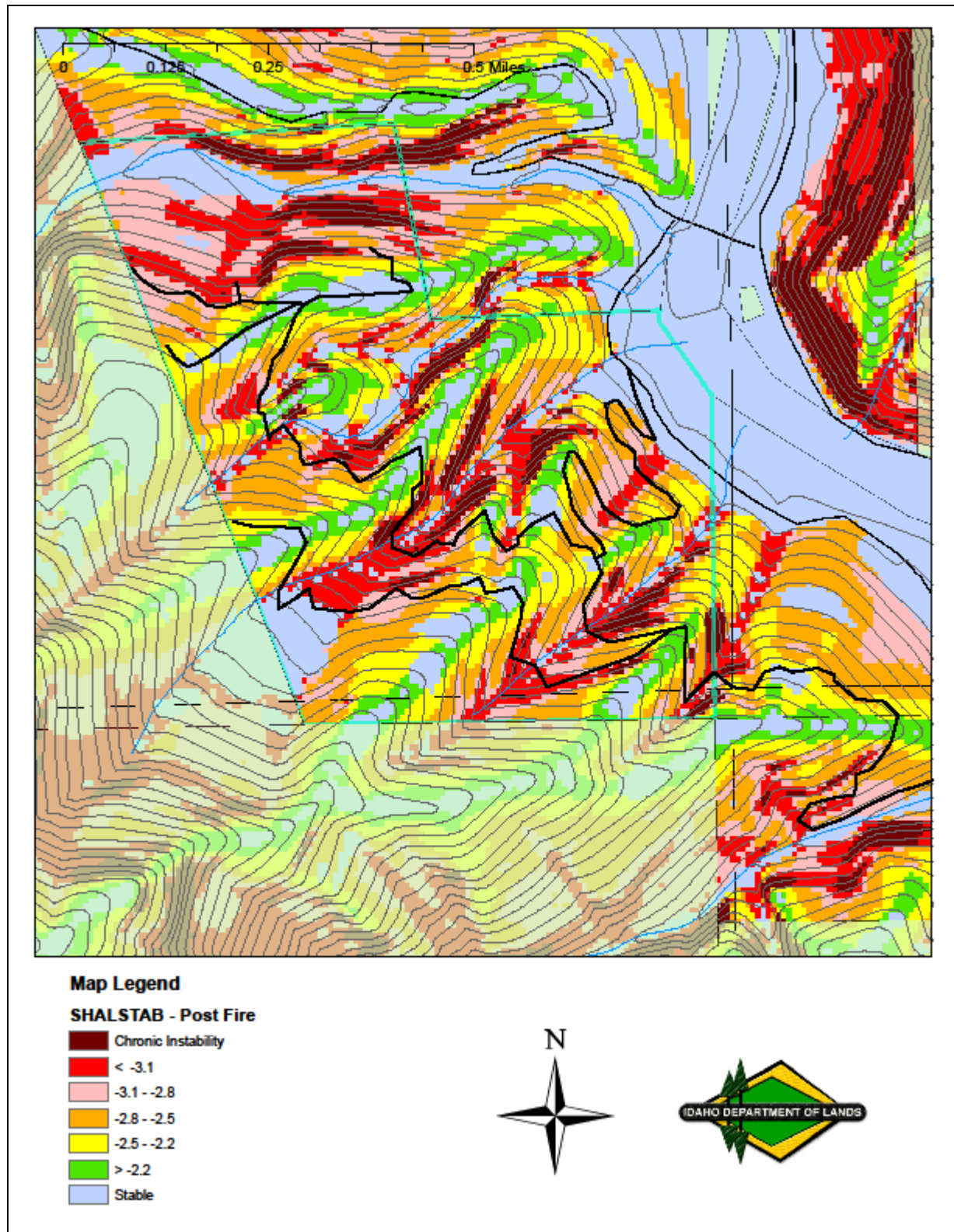


Figure 3. Map showing SHALSTAB shallow slope stability in the Post Fire Condition.

FIELD OBSERVATIONS

On September 23 I made a site visit with a hike through a portion of the burn to make observations about soil types, burn severity and geologic hazards including the possibility of shallow landslides and erosion which is a concern post fire. The soils were observed to be a silty sand to a sandy silt. I observed the burn intensity to be low to moderate with a lot of fines left on the trees, this is beneficial for the slash spreading mitigation (Photograph 1). The creek bottoms or riparian areas were not burned in most locations and will thus provide some vegetative buffer (Photograph 2) to the streams, mitigating sediment delivery. The slopes are steep some measured to be as high as 70 percent slope, with a lot above 50 percent slope (Photograph 3).



Photograph 1. Typical view of burn severity on Endowment Lands.



Photograph 2. Riparian area unburned thus providing a vegetative buffer.



Photograph 3. Typical burn severity and some steep slopes.

RISK ASSESSMENT

Under current post fire conditions, it is my professional judgment that the risk of shallow mass failure on Endowment lands is generally moderate, and the risk of erosion is generally moderate to high. The site is expected to erode more quickly during high intensity short duration precipitation events. These potential storm events are what make for relatively moderate risk of mass failure and erosion. The precipitation quickly saturates the soil causing soil movement (erosion) that can plug a stream crossing or drainage structure that subsequently fails releasing more sediment in the form of a shallow landslide (debris flow). These are the events we need to mitigate and avoid. We can't stop the storm events but we can monitor them with onsite patrols and perhaps catch failures or potential failures while in progress.

I analyzed the area using the SHALSTAB slope stability software program taking into account the affects of slash spreading mitigation. The slash spreading (aka, lop and scatter) will decrease the probability of shallow landslides by controlling concentrated overland flow and erosion which are triggers to shallow landslides. To mimic this affect in the SHALSTAB model I increased the cohesion value, and the results are shown in Figure 4. The model output shows a reduction in shallow landslide risk because there is less erosion risk and landslide triggers. **It's my professional opinion that slash spreading is a very effective technique for mitigating landslide triggers, thus shallow landslides.**

The proposed timber harvest on Endowment lands is a small portion of the bigger Johnson bar fire and its possible a shallow landslide may be triggered or originate from the USFS land topographically above and pass through the Endowment land.

Building the new haul road up the steep slope with several switchbacks is a concern. Mitigating this concern will be a full bench and end haul road construction which removes the fill prism from the road. The fill prism is the part of the road where erosion can cause a small failure and trigger a larger landslide. This is minimized with the full bench and end haul construction technique.

Stream crossings on the sale could become plugged with landslide debris, or slash from the slash spreading operations at high flow. To mitigate the potential culvert blockage, the culverts will be oversized with trash racks, and storm patrols are proposed.

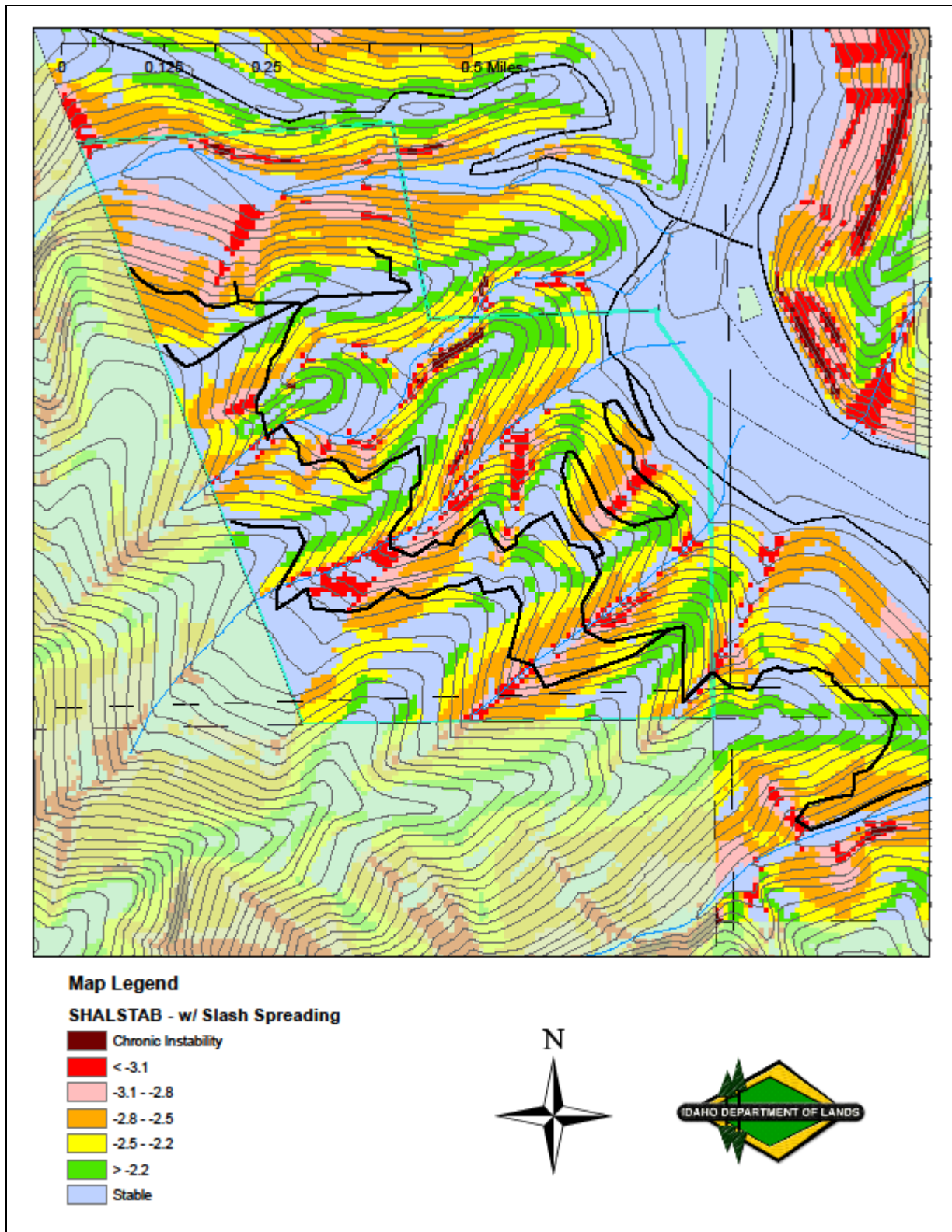


Figure 4. SHALSTAB shallow stability rating with mitigation by Slash Spreading.

RECOMMENDATIONS

I recommend constructing the haul road and harvesting the timber. The following are specific recommendations:

1. Slash Spreading. In low and moderate severity burn areas, spread tree tops and limbs over the slopes. Tops and limbs should be in contact with the ground as much as possible to reduce surface erosion.
2. Log Erosion Barriers. Where possible in moderate severity burn areas, limb and place sub-merchantable trees on the contour.
3. Storm Inspection and Response (Storm Patrol). For the next three years, all culverts within the sale should be inspected and cleaned during and after intense storms or spring runoff.
4. Oversize all stream crossing and relief culverts 1 to 2 sizes larger than the standard FPA sizing chart. Specific sizing of all 10 stream crossings for the sale will be covered under a separate memorandum.
5. Install debris racks above the inlet of all culverts. Includes driving in T- posts or rebar perpendicular to the channel one foot apart about 5 to 10 feet above the culvert inlet. The concept is that the debris will hang up on the posts before it plugs the culvert.
6. Full bench and end haul all roads where the side slope is greater than 50 percent. This is a requirement of the Idaho Forestry Program.
7. All disturbed soils for road construction should be seeded and mulched, and the use of straw bales or straw waddles for erosion control ought to be utilized where practical.

If you have any questions, please contact me.

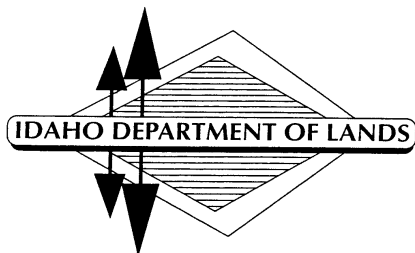
CC:

Kurt Houston, Operations Chief South
Bob Helmer, BC-FM
Ara Andrea, BC-TS
Michele Andersen, PM-TS
Dan Fabbi, RS-MC

Memorandum
Selway Sale – Slope Stability

EXHIBIT G

**OCTOBER 27, 2014 MEMORANDUM RE SELWAY
SALE CR-42-5085, STREAM CROSSING
EVALUATION AND RECOMMENDATIONS**



Coeur d'Alene Offices

3284 W. Industrial Loop,
Coeur d'Alene, ID 83815
Telephone (208) 769-1525

MEMORANDUM

TO: Zoanne Anderson, Maggie Creek Area Manager

FROM: Scott A. Marshall, Engineering Geologist *AM*

DATE: October 27, 2014

SUBJECT: Selway Sale CR-42-5085, Stream Crossing Evaluation and Recommendations

INTRODUCTION

On September 23, 2014, I conducted a field visit to the Johnson Bar Fire located on the west side of the Selway River in the wild and scenic corridor to make observations and provide recommendations regarding stream crossing design. The proposed timber salvage sale known as Selway CR-42-5085 is located in Section 16 of T32N, R7E (Figure 1). I was accompanied in the field by Resource Specialist Nick Carter, Fisheries Biologist Chris Tretter and Forest Hydrologist Joel Clark. I was asked to provide stream crossing design for fifteen locations on the timber sale. This memorandum is a companion document to the slope stability analysis dated October 23, 2014.

HYDROLOGIC CHARACTERISTICS

All the streams on the site are non fish bearing class II streams; therefore I recommend round culverts for all of the crossings (Figure 2), except number 14 which will incorporate a ford.

The subject site was burned and slash spreading will be utilized as a slope stability mitigation technique therefore the culverts will need to be oversized. The methodology for over sizing the culverts is as follows. The drainage area for the proposed tributary crossings is located in Hydrologic Region 2, according to the publication "Magnitude and Frequency of Floods in Small Drainage Basins in Idaho", U.S.G.S.

The following regression equation was utilized to calculate the predicted 10 and 50-year peak flows that may occur in this drainage:

$$Q_{10} = 66.5 A^{0.801} F^{-0.236}$$

$$Q_{50} = 1.5 \times Q_{10}$$

where A is the drainage area in square miles, F is the percent forest cover + one percent (not a decimal), Q_{10} is the 10-year flood event, and Q_{50} is the 50-year flood event.

I utilized this formula for sizing the culverts and set the forest cover (F) to zero (0). This simulates the run off of unprotected ground due to a fire. The peak flow for a 50-year event is shown in Table 1 for each of the stream crossings. The culvert size is shown in column 3. I minimum culvert size criteria of 24 inch diameter was imposed where the calculations indicated a smaller diameter.

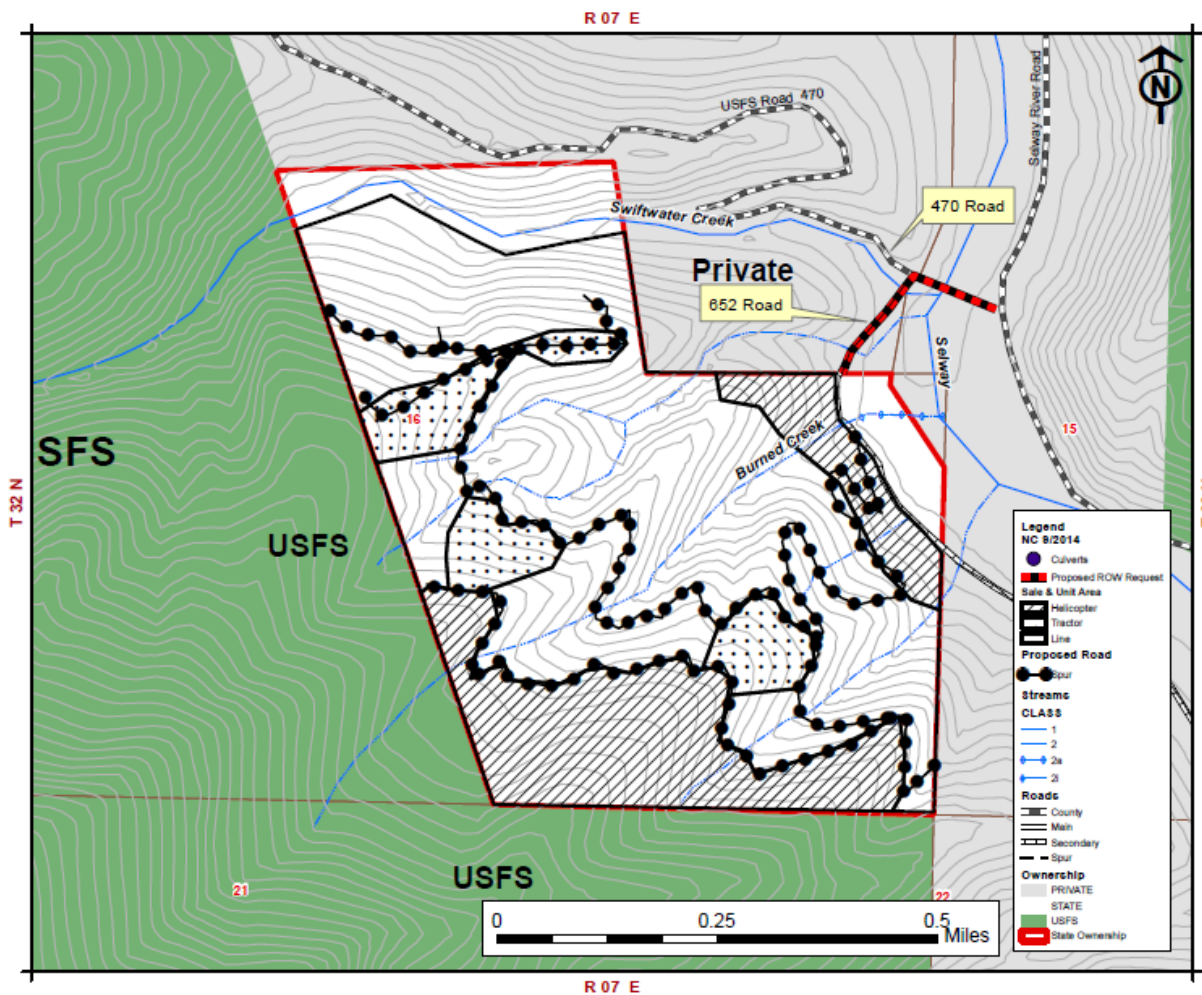


Figure 1. Sale Map showing harvest units, ownership, and roads.

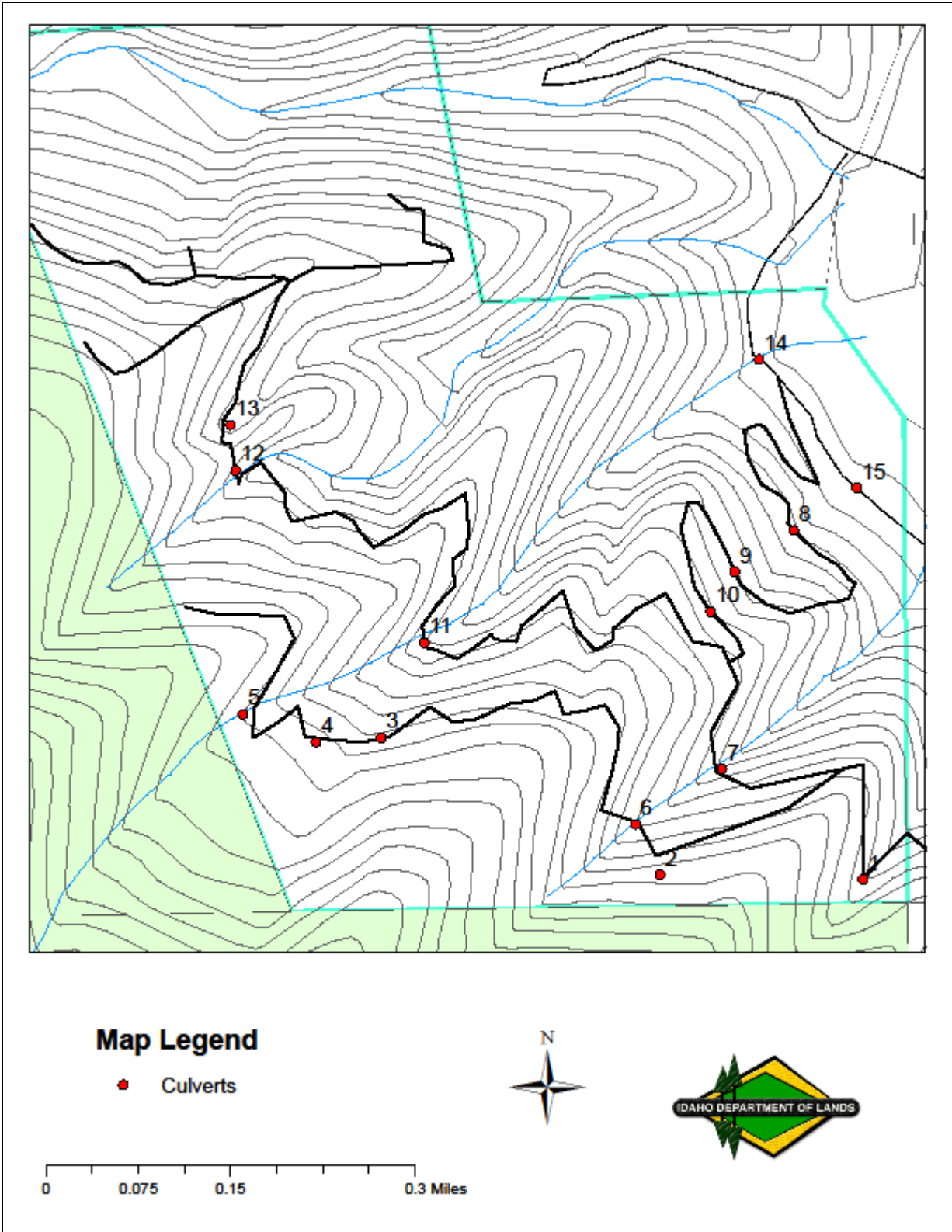


Figure 2. Stream crossing locations.

RECOMMENDATIONS

Stream crossings on the sale could become plugged with landslide debris, or slash from the slash spreading operations at high flow. To mitigate the potential culvert blockage, the culverts will be oversized with trash racks, and storm patrols are proposed. The following are specific recommendations:

1. Oversize all culverts as indicated in Table 1. The corresponding culvert number is shown on Figure 2.
2. Install debris racks above the inlet of all culverts. Includes driving in T- posts or rebar perpendicular to the channel one foot apart about 5 to 10 feet above the culvert inlet. The concept is that the debris will hang up on the posts before it plugs the culvert.
3. I recommend a vented ford for the lowest Burned Creek crossing #14. This will include a 24 inch diameter culvert, and 4-8 inch diameter angular rock ford and approaches. Suggest a slight offset with the culvert to the north and the ford (overflow) to the south. This will require some stream channel preparation and road grade adjustment.
4. Storm Inspection and Response (Storm Patrol). For the next three years, all culverts within the sale should be inspected and cleaned during and after intense storms or spring runoff.

Table 1. Culverts Sizes

Culvert Number	50 year flow (cubic feet/sec)	Culvert Diameter (inches)
1	3.3	24*
2	1.5	24*
3	6.9	24*
4	7.1	24*
5	20.6	36
6	7.5	24*
7	10.5	24
8	3.8	24*
9	2.3	24*
10	1.3	24*
11	22.9	36
12	9.0	24
13	2.7	24*
14	36.1	42 or recommend #3
15	5.3	24*

* Minimum 24 inch dia criteria

If you have any questions, please contact me.

CC:

Kurt Houston, Operations Chief South
Bob Helmer, BC-FM
Ara Andrea, BC-TS
Michele Andersen, PM-TS
Dan Fabbi, RS-MC

EXHIBIT H

SALE PRICE WORKSHEET

D r a f t

Idaho Department of Lands

Estimated Volumes for Sale Purposes

Sale Name: Selway Fire

Cruise No: CR-42-5085

Sale No.:

Unit	Acres	Species (MBF)									Total Volume	Estimated Gross Value
		WP	PP	DF-L	GF-H- SAF	C	Cedar Products	S	LPP	PULP		
1	167	35	-	90	3,565	3,200	-	-	-	-	6,890	\$ -
2	-	-	-	-	-	-	-	-	-	-	-	\$ -
3	-	-	-	-	-	-	-	-	-	-	-	\$ -
4	-	-	-	-	-	-	-	-	-	-	-	\$ -
5	-	-	-	-	-	-	-	-	-	-	-	\$ -
6	-	-	-	-	-	-	-	-	-	-	-	\$ -
7	-	-	-	-	-	-	-	-	-	-	-	\$ -
8	-	-	-	-	-	-	-	-	-	-	-	\$ -
9	-	-	-	-	-	-	-	-	-	-	-	\$ -
10	-	-	-	-	-	-	-	-	-	-	-	\$ -
11	-	-	-	-	-	-	-	-	-	-	-	\$ -
12	-	-	-	-	-	-	-	-	-	-	-	\$ -
13	-	-	-	-	-	-	-	-	-	-	-	\$ -
14	-	-	-	-	-	-	-	-	-	-	-	\$ -
15	-	-	-	-	-	-	-	-	-	-	-	\$ -
Totals	167	35	-	90	3,565	3,200	-	-	-	-	6,890	\$ -

Remarks: Volumes are based on a cruise done in 2006. Additional defect was added to that cruise to account for burned timber.

Idaho Department of Lands
Sale Price Work Sheet

D r a f t

SALE NAME: Selway Fire
CRUISE NUMBER: CR-42-5085
SALE VOLUME: 6,890

Sale Duration: 2 Years
Price Period: 2nd Quarter 2015

Bull Pine volume(MBF):
 Yellow Pine volume(MBF):
 Delivered log price-Bull Pine \$ 335.00
 Delivered log price-Yellow Pine \$ 335.00
 Minimum Price-Bull Pine \$ 116.70
 Minimum Price-Yellow Pine \$ 116.70

Price Center:		Miles
Sawlogs	Grangville	60
Pulp	Lewiston	109
C. Prod.	Star Cedar	33

	WP	PP	DF&L	GF-H-SAF	C	S	LPP	Pulp	Cedar Products
VOLUME(MBF)	35		90	3,565	3,200				
Delivered Log Price	\$ 300.00	\$ 335.00	\$ 430.00	\$ 385.00	\$ 800.00	\$ 335.00	\$ 340.00	\$ 10.00	\$ 100.00
LOG MAKING TO TRUCK	\$ 162.40	\$ 162.40	\$ 162.40	\$ 162.40	\$ 162.40	\$ 162.40	\$ 162.40	\$ 162.40	\$ 162.40
TRANSPORTATION									
Hauling	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 300.00	\$ 100.00
Road Maintenance	\$ 3.81	\$ 3.81	\$ 3.81	\$ 3.81	\$ 3.81	\$ 3.81	\$ 3.81	\$ 3.81	\$ 3.81
TOTAL	\$ 103.81	\$ 103.81	\$ 103.81	\$ 103.81	\$ 103.81	\$ 103.81	\$ 103.81	\$ 303.81	\$ 103.81
CONTRACTUAL									
Hazard Management (Slash)	\$ 0.65	\$ 0.65	\$ 0.65	\$ 0.65	\$ 0.65	\$ 0.65	\$ 0.65	\$ 0.65	\$ 0.65
Scaling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Scaling Assessment	\$ 0.20	\$ 0.20	\$ 0.20	\$ 0.20	\$ 0.20	\$ 0.20	\$ 0.20	\$ 0.20	\$ 0.20
Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ 0.85	\$ 0.85	\$ 0.85	\$ 0.85	\$ 0.85	\$ 0.85	\$ 0.85	\$ 0.85	\$ 0.85
TOTAL LOGGING ALLOWANCE	\$ 267.06	\$ 267.06	\$ 267.06	\$ 267.06	\$ 267.06	\$ 267.06	\$ 267.06	\$ 467.06	\$ 267.06
STUMPAGE									
Stumpage(w/o stump int.)	\$ 32.94	\$ 67.94	\$ 162.94	\$ 117.94	\$ 532.94	\$ 67.94	\$ 72.94	\$ (457.06)	\$ (167.06)
Stumpage Interest	\$ 1.98	\$ 4.08	\$ 9.78	\$ 7.08	\$ 31.98	\$ 4.08	\$ 4.38	\$ (27.42)	\$ (10.02)
Stumpage Indicated	\$ 30.96	\$ 63.86	\$ 153.16	\$ 110.86	\$ 500.96	\$ 63.86	\$ 68.56	\$ (429.64)	\$ (157.04)
Stumpage(Rounded)	\$ 31.00	\$ 63.90	\$ 153.20	\$ 110.90	\$ 501.00	\$ 63.90	\$ 68.60	\$ (429.60)	\$ (157.00)
MINIMUM PRICE	\$ 120.50	\$ 116.70	\$ 139.90	\$ 136.00	\$ 323.10	\$ 108.10	\$ 150.60	\$ 10.00	\$ 10.00
OFFERING PRICE	\$ 120.50	\$ 116.70	\$ 153.20	\$ 136.00	\$ 501.00	\$ 108.10	\$ 150.60	\$ 10.00	\$ 10.00
Gross \$/MBF: \$ 305.67	Gross \$/Ton: -				GROSS SALE VALUE: \$ 2,106,045.50				
Development \$/MBF: \$ 67.76					DEVELOPMENT CREDIT: \$ 466,817.00				
Net \$/MBF: \$ 237.92	Total Tons:				NET SALE VALUE: \$ 1,639,228.50				

DEPARTMENT OF LANDS
MEMO TO THE LAND BOARD
 TIMBER SALE PROPOSAL

DESCRIPTION				Sale Name	
SUBDIVISION	SECTION	TWP	RANGE	Selway Fire	
Pts. SWNE, Pts. Lot 4	16	32N	7E	Cruise No.	Sales Plan Fiscal Year
Pts. NWSE, Pts. S2SE	16	32N	7E	CR-42-5085	2015
				Acre(s)	Duration (Yrs)
				167	2 years
				Fund	Public School
				County	
				Idaho	
					Fire Suppression Rate
					\$0.12
				Sale Location	
				25 mile(s) E of Kooskia Idaho	

SPECIES	RECOMMENDED PRICE PER MBF	VOLUME (MBF)	VALUE EXTENDED
White Pine	\$120.50	35	\$4,217.50
Ponderosa Pine	\$116.70	0	\$0.00
Douglas-fir & Larch	\$153.20	90	\$13,788.00
Grand Fir, Hemlock, SAF	\$136.00	3,565	\$484,840.00
Cedar	\$501.00	3,200	\$1,603,200.00
Cedar Products (Optional)	\$10.00	0	\$0.00
Spruce	\$108.10	0	\$0.00
Lodgepole Pine	\$150.60	0	\$0.00
Pulp (Optional)	\$10.00	0	\$0.00
Cedar Poles			\$0.00
Other			\$0.00
Totals		6,890	\$2,106,045.50
		Less Developments	\$466,817.00
		Net Value	\$1,639,228.50

REMARKS:

This sale is a fire salvage resulting from the Johnson Bar wildfire located in the Selway River corridor. The sale consists of one 142 acre clearcut as a result of wildfire and 25 acres of right of way clearing for development work. Logging systems include skyline and tractor. Development work includes approximately 3.43 miles of new spur road construction and 0.39 miles of spur road reconstruction. This sale complies with the Idaho Forest Practices Act. Sale is recommended.

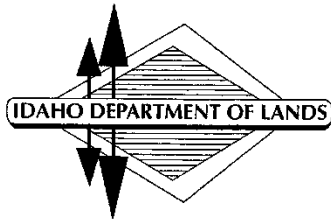
BOARD ACTION:

Approved

Denied

EXHIBIT I

FEBRUARY 17, 2015 LAND BOARD MINUTES



STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board
Lawrence E. Denney, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon D. Woolf, State Controller
Sherri Ybarra, Superintendent of Public Instruction

Tom Schultz, Secretary to the Board

Final Minutes
State Board of Land Commissioners' Regular Meeting
February 17, 2015

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, February 17, 2015 in the second floor courtroom of the Borah Building, 304 North 8th Street, Boise. The meeting began at 9:00 a.m. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Lawrence Denney
Honorable Attorney General Lawrence Wasden
Honorable State Controller Brandon Woolf
Honorable Superintendent of Public Instruction Sherri Ybarra

For the record, Governor Otter recognized the presence of all Board members. Governor Otter welcomed Secretary of State Denney and Superintendent Ybarra to their first meeting of the Land Board in their official roles as Commissioners.

1. Director's Report

A. Interest Rate on Department Transactions – February 2015

B. Timber Sale Activity and Information Report – January 2015

DISCUSSION: Governor Otter asked if the timber over 28 inches lowers the overall stumpage price; does the Department receive substantially less money for those. State Forester Groeschl replied that the Department does receive less value per thousand for the larger trees for most species, trees over about 26 to 28 inches in diameter, because there are fewer mills that can handle the large trees. Mr. Groeschl also remarked that the milling capabilities are less efficient with the larger trees. Mr. Groeschl stated newer mills can handle smaller logs much more efficiently and cost effectively so they typically pay a higher premium. The other related piece, larger trees typically have more defects associated with them so there is less recovery percentage wise versus a smaller log where the recovery is very high because there is less defect. Governor Otter asked how many mills can handle over 28 inches on the carriage. Mr. Groeschl replied there are three in Idaho and one in Oregon of which he is aware. Mr. Groeschl added that the price of pine tends to remain constant with the larger diameter logs, but all other species there is a discount of 25%-30%.

Governor Otter inquired about the status of sustainable yield, and for the benefit of new Board members remarked that at the start of his first term as Governor, the Department was about 2 billion board feet behind on sustainable cut. Director Schultz noted that at that time the Department was selling 212 million board feet and now the Department is selling 250 million board feet on an annual basis. Director Schultz commented that the harvest can fluctuate. A timber sale contract has between one and three years duration. The purchaser may harvest it in the first year, they may harvest in three years. The Department had about 350 million board feet harvested last year. Director Schultz stated the excess volume has been reduced and explained that with more harvesting and regenerating younger stands, the trees grow faster. Faster growth rates translate to constantly putting more volume on the stump as new trees are grown and planted. Director Schultz noted the Department has brought that 2 billion board feet down by approximately 150-200 million board feet, but at the same time has improved the productivity of its forest through the regeneration of harvest that has been done. Governor Otter commented this discussion relates to his earlier question: if the Department is 2 billion board feet behind, there are probably trees 28 inches and larger and continuing to grow; increased harvest is helping. Governor Otter also mentioned that younger trees sequester much more carbon.

C. Division of Lands and Waterways Activity and Information Report – January 2015

DISCUSSION: Director Schultz commented on the many residential, or cottage site, leases on this month's report. Approximately 110 cottage site lessees at Priest Lake are challenging the value of the 2013 appraisals. One of the requirements for lessees to continue on and be considered for a voluntary auction is to sign a long-term lease. When those appraisal values get resolved in the next three to four months then those values will be adjusted in the lease. The high number of residential leases is because those lessees are signing cottage site leases going forward the next five to ten years.

Director Schultz next mentioned the assignments, and for historical perspective gave statistics for the past several years. In 2011 there were 18 assignments, in 2012 there were 16, in 2013 there were 18 and in 2014 there were 38 assignments. In 2015 to date the Department has processed 2 assignments. One method for individuals trying to get out of a lease is to assign the lease to another individual; the Department has seen a lot of assignment transactions occurring.

Director Schultz provided an update on cottage site defaults. The Department did have concern for potentially 25 leased lots at Priest Lake in default; there are now only 4 lots at Priest Lake that are unpaid, and one unpaid leased lot at Payette Lake that are potential defaults. Director Schultz commented that in addition to the above, 11 lessees at Priest Lake have signed permits: 9 are demolition permits which allow roughly six months for improvements to be removed and 2 are two-year land use permits. One lot at Payette Lake is under permit.

Controller Woolf asked what is the time frame and next steps for the 110 that are being challenged. Director Schultz explained the appraisals were done by Mr. Steve Hall with an effective date in October of 2013. There were initially a large number of lessees who challenged those values; 110 remain. A second appraisal was done by Vicky Mundlin at the cost of the lessee. The procedure was then if those two values were within 10%, the Department would split the difference. Only around 5 were within that range. A number of people have since signed their lease with the Hall value. Another 10 dropped out of the challenge process.

For the 110 that remain in the challenge process, a third appraiser was hired, John Frome. Mr. Frome is reviewing the Hall appraisals and Mundlin appraisals to determine if one or the other, or both, are supported according to Uniform Standards of Professional Appraisal Practice. If one is more supported, the Department would use that value. If both are equally supported then the Land Board may choose one value or the other, or split the difference. The Department expects final appraisal reviews from Mr. Frome in April.

Governor Otter asked if the appraisers are using the voluntary auctions when looking at like sales. Director Schultz replied that they have not because the appraisals were done before the auctions took place. Going forward, the auctions could be used on future appraisals; the Department will encourage the appraisers to use those values. Director Schultz commented that sometimes auctions are viewed as distressed sales in the marketplace and not used by appraisers. Governor Otter remarked that the Department by law cannot sell lots without an auction and wondered why it would not be considered a comparative. Director Schultz stated the Department will inquire more into the reason appraisers might not want to use auction sales as a comparative value. Director Schultz noted that some of the lots sold at auction will subsequently sell on the marketplace, non auction sales, which would generate more comparative sales over time through the disposition of cottage sites. Attorney General Wasden restated that the auctions have occurred after the date for which the valuations are being done so they would not be relevant to that timing. Director Schultz acknowledged the Attorney General's statement; the challenge appraisals are using an effective date of 2013. The auction values have no bearing on the challenge appraisals that are being reviewed by Mr. Frome, because the auctions occurred later. Director Schultz noted there is a subsequent set of appraisals that will be conducted this summer for the Priest Lake auction that will take place at the end of the summer; there is potential for preceding auctions to have some influence on those appraisals. The Department will ask the appraiser that question specifically, how those auction results would be used. Governor Otter inquired how many lots will be auctioned at Priest Lake and Payette Lake this year. Director Schultz replied the Department plans to auction 40 leased lots and up to 15 unleased lots at Priest Lake. In addition, there may be an additional auction for some of the 11 lots that are under permit at Priest Lake. At Payette Lake, the Department anticipates between 20 and 25 leased lots and potentially the one that is under permit.

Director Schultz reported that at the January 31st auction for Payette Lake lots, 29 leased lots and 3 unleased lots sold, and 3 unleased lots did not sell. For future auctions, prior to bringing forward unleased lots for sale, the Department would prefer to have an applicant make application and nominate a lot so the Department will not bear all the costs of taking those unleased lots through the auction process.

Also from the transaction report, Director Schultz mentioned several oil and gas leases that were assigned. Trendwell West acquired six leases from Mr. Biteman. The Department expects to see continued competition and bids for oil and gas leases; the Department will hold an oil and gas lease auction in April this year. Primarily competition has been between Alta Mesa and Trendwell West for those leases.

D. Legal Matter Summary – January 2015

E. Legislative Update

2. Endowment Fund Investment Board Manager's Report – *Presented by Larry Johnson, EFIB Manager of Investments*

A. Manager's Report

DISCUSSION: Mr. Johnson reported that reserves are in good shape and there are no compliance issues. Mr. Johnson noted the Investment Board met on Wednesday, February 11th and as part of its agenda considered Callan Associates' recommendation to look at a U.S. commercial property investment. The Investment Board approved, in concept, the idea of exploring a \$150,000,000 allocation to an open-ended diversified U. S. real estate fund. Callan and EFIB staff will research options in more detail and return to the Investment Board with the final implementation plan before November this year. Mr. Johnson will keep the Land Board updated as they proceed.

B. Investment Report

DISCUSSION: Mr. Johnson stated the Fund lost nearly 1% in January and for fiscal year to date was slightly above even. Through February 16 the Fund is up a little more than 3% which brings fiscal year to date to just over 3.5%. Mr. Johnson commented that all investment managers are performing as expected.

• CONSENT

3. Timber Sales for Approval – *Staffed by Eric Besaw, Regional Operations Chief-North, and Kurt Houston, Regional Operations Chief-South*NORTH OPERATIONS

NONE

COUNTYAREA OFFICESOUTH OPERATIONS

A. Selway Fire

CR-42-5085

6,890

MBF

COUNTY

Idaho

AREA OFFICE

Maggie Creek (Kamiah)

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

4. Amendment to Dredge and Placer Mining Permit P00322, Emerald Creek Garnet– *Staffed by Eric Wilson, Program Manager-Minerals*

RECOMMENDATION: Approve issuance of the amended permit (Attachment 2) subject to adherence to the plan submitted in the application, submission of the required bond, and compliance with the Rules and Regulations Governing Dredge and Placer Mining Operations in Idaho.

DISCUSSION: None.

5. Approval of Minutes – December 15, 2014 Regular Meeting (Boise)

CONSENT AGENDA BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the Consent Agenda. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

- REGULAR

6. Settlement *State of Idaho, et al v Zamzow and Sisler*, Gem County Case No. CV2013-812 – Presented by Steve Schuster, Deputy Attorney General, and Kathleen Trever, Deputy Attorney General, Idaho Department of Fish and Game

RECOMMENDATION: The Department recommends that the Board approve the settlement agreement and authorize legal counsel to dismiss the Board's and IDL's claim to title to the islands in light of the IDFG acquisition.

DISCUSSION: For the record, Deputy Attorney General Dallas Burkhalter attended the meeting on behalf of Idaho Fish and Game. Governor Otter asked for clarification on management of the lands. Mr. Schuster responded the lands would be managed by Fish and Game for fish and wildlife as part of the Payette Wildlife Management Area. Governor Otter inquired if there is access to the lands by the public. Mr. Schuster answered there is public access to the property, which is all islands; there is no legal access to the parcels, but they are accessible by wading the channel or using a boat. Mr. Schuster restated the Department is requesting approval of the settlement agreement, the result of which will be dismissal of the lawsuit and purchase of the lands by Fish and Game. Mr. Schuster added that property taxes had not been paid on these lands for a long period of time. The islands were never on the tax rolls. In about the mid 2000s, the Zamzow Trust began paying taxes on the portion of the islands that is within the original meander line from the 1868 survey. That amounts to a little less than \$200/year. Idaho Department of Fish and Game will be paying fees in lieu of taxes for the parcels in question, as well as other parcels in the Wildlife Management Area. Attorney General Wasden noted his understanding that purchase of these parcels by Fish and Game is entirely consistent with the public trust doctrine and the public values for which these properties are managed, and asked for confirmation of his understanding. Mr. Schuster replied, yes, that is the reason the Department requests approval of this. If the Department had acquired title, it would be difficult land to manage, it does not have legal access, and there is very little income potential from it. The highest and best use in the appraisal was determined to be recreational property and that use would be consistent with the public trust use.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the settlement agreement and authorize legal counsel to dismiss the Board's and IDL's claim to title of the islands in light of the Idaho Department of Fish and Game acquisition. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

7. Final Order Mineral Lease E500017 (Smith) – *Presented by Andrew Smyth, Program Manager-Public Trust*

RECOMMENDATION: Approve the Director's Final Order for issuance of Riverbed Mineral Lease E500017.

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board table this matter subject to the call of the Director. Attorney General Wasden explained reasons for his motion include a desire to inspect the section of the river identified in the lease and to allow the Board sufficient opportunity to review testimony and documents submitted during this meeting as part of the Board's decision making. Attorney General Wasden also noted that determination of whether or not the applicant is subject to the requirements of federal law is not a decision that this Board can make. The Board is an executive function, and it would be a judicial function of a court to make that determination. Controller Woolf seconded the motion. Governor Otter stated his support of the motion, commenting that the applicants brought up some interesting actions that should be contemplated. Governor Otter asked Director Schultz to review the official record of this meeting and whatever other modifications the Department may make to this lease, the Governor requested that the Department make changes in terms of protecting against quagga mussels, zebra mussels or other invasive aquatic species. The motion carried on a vote of 5-0.

8. Approval to Proceed with Due Diligence for Big Creek Land Exchange Proposal – *Presented by David Groeschl, State Forester and Deputy Director-Forestry and Fire*

RECOMMENDATION: The Department recommends that the Board approve proceeding with due diligence for the Big Creek Land Exchange proposal.

DISCUSSION: Attorney General Wasden requested clarification that the proposal in this Board memo today is simply to go through the due diligence; it is not approval of the exchange itself. Mr. Groeschl replied that is correct. Attorney General Wasden expressed his understanding that the theoretical proposal here is to take an isolated parcel of endowment land and exchange it for a private parcel that is immediately adjacent to other endowment parcels. Mr. Groeschl affirmed the Attorney General's understanding.

Controller Woolf asked if the Department has an expectation of what the due diligence would cost. Mr. Groeschl responded the Department has not done an estimate of the different costs to perform due diligence; it will be roughly \$10,000. The survey work is an unknown, assessing what corners are established on the Hollibaugh parcel. The Department would not have survey work done on the Big Creek parcel until the Hollibaugh parcel is surveyed. Mr. Groeschl noted there would be savings for the Department by exchanging out of an isolated, no access parcel, that has boundary all around to maintain with private ownership. The Hollibaugh parcel would have less boundary to maintain because it is adjacent to an endowment block.

Governor Otter referenced a small endowment parcel in the upper, left-hand corner of the attached map and suggested that the Department try and trade out of that as well. Mr. Groeschl stated that the Department does look for opportunities to exchange out of isolated parcels where the Department has no access. Sometimes parcels that appear isolated on a map do have legal access and the Department is able to manage them. Governor Otter encouraged the Department to pursue every opportunity that arises to consolidate endowment ownership.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the Department recommendation to proceed with due diligence for the Big Creek Land Exchange proposal. Secretary of State Denney seconded the motion. The motion carried on a vote of 5-0.

9. Cottage Site Auction Plan Selection Update – Presented by Patrick Hodges, Deputy Director-Lands and Waterways

RECOMMENDATION: Instruct the Department to add Hunt Creek Block 1 Lot 28 and Pinto Point Block 16 Lot 1 to the 2017 VAFO cycle.

DISCUSSION: Governor Otter asked if a lessee applies for auction and then backs out, who pays those costs incurred in preparing for the auction. Mr. Hodges replied the Department has a schedule of fees that are paid by applicants at certain points in the process. Governor Otter asked if those fees are paid to the Department; Mr. Hodges said yes.

BOARD ACTION: A motion was made by Attorney General Wasden that the Board approve the Department recommendation and instruct the Department to add Hunt Creek Block 1 Lot 28 and Pinto Point Block 16 Lot 1 to the 2017 VAFO cycle. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

Background information was provided by the presenter indicated below. No Land Board action is required on the Information Agenda.

- INFORMATION

10. Sage Grouse Management Plan – Presented by Patrick Seymour, Program Manager-Endangered Species

DISCUSSION: A verbatim transcript is available by request to the Department of Lands, Attn: Land Board Recording Secretary, PO Box 83720, Boise, Idaho 83720-0050 or by email to public_records_request@idl.idaho.gov.

- EXECUTIVE SESSION

NONE

There being no further business before the Board, at 11:28 a.m. a motion was made by Attorney General Wasden to adjourn. Controller Woolf seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ C. L. "Butch" Otter

C. L. "Butch" Otter
President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Lawrence E. Denney

Lawrence E. Denney
Secretary of State

/s/ Thomas M. Schultz, Jr.

Thomas M. Schultz, Jr.
Director

<p>The above-listed final minutes were approved by the State Board of Land Commissioners at the March 17, 2015 regular Land Board meeting.</p>
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EXHIBIT J

**STATE TIMBER SALE CR428085,
SELWAY FIRE AUCTION NOTICE**

STATE TIMBER SALE
CR425085, SELWAY FIRE

A public oral auction will be conducted at the Idaho Department of Lands office, 913 3rd Street, Kamiah, ID 83536, at 3:00 p.m. local time, on Friday, June 19, 2015, for an estimated 6,890 MBF of timber marked or otherwise designated for cutting. In addition, there is an unestimated volume of forest products that may be removed at the option of the purchaser. Prior to bidding, eligible bidders shall present a certified check or bank draft payable to Treasurer, State of Idaho, or a bid bond acceptable to the State, in the amount of \$163,922.85 which is 10% of the appraised net sale value of \$1,639,228.50. The successful bidder's deposit will be forfeited to the State should the bidder fail to complete the contract. The State will not accept bids from parties who are delinquent on payments on existing state contracts. The average starting minimum bid price is \$305.67 per MBF.

The sale is located within Section 16, Township 32N, Range 07E, B.M., Idaho County, State of Idaho. Sale duration is 2 years. The sale may include blowdown and/or insect and disease infected timber which may result in additional volume and recovery reductions. Interested purchasers should carefully examine the sale and make their own estimates as to volume recovery, surface conditions, and proposed construction prior to bidding on the sale. Additional information concerning the timber and conditions of sale is available to the public and interested bidders on the department's timber sale website at <https://apps.idl.idaho.gov/timbersale> or from the Idaho Department of Lands office, Coeur d'Alene, Idaho.

Purchaser insurance requirements are available for review on the Idaho Department of Lands timber sale website.

The State Board of Land Commissioners reserves the right to reject any and all bids provided that good and sufficient grounds for rejecting the bid shall be stated in the rejection notice and shall not be in violation of applicable law.

If you are disabled and need some form of accommodation, please call (208) 935-2141 five days prior to the date of sale. For text telephone services, please call 1-800-377-3529.

Date of Publication: Wednesday, June 17, 2015

EXHIBIT K

**PROPOSED SPECIAL TERMS OF SALE
CR428085, SELWAY FIRE**

PROPOSED SPECIAL TERMS OF SALE
CR425085, SELWAY FIRE

6/8/2015

30. SPECIAL TERMS:

a. Harvest Specifications

- (1) All trees, live or dead, lying within unit(s) 1 and 2 shall be felled and merchantable products removed as designated below:
- (2) Harvest specifications as designated below:
 - (a) Merchantable sawlogs shall be removed.
 - (b) Merchantable cedar products may be removed at the Purchaser's option according to a written plan approved by the State (Forester-in-charge). If the Purchaser elects to remove cedar products from any unit, removal of all designated cedar product material from that unit will be mandatory.
 - (c) Cedar products material 2 to 8 feet in length with a minimum shell of 3.5 inches usable wood may be removed at the Purchaser's option according to a written plan approved by the State (Forester-in-charge). Cedar products material will be measured using scaling techniques according to the guidelines in the latest edition of the IDAHO DEPARTMENT OF LANDS Log Scaling Handbook.
 - (d) Merchantable pulpwood may be removed at the Purchaser's option according to a written plan approved by the State (Forester-in-charge). If the Purchaser elects to remove pulpwood from any unit, removal of all designated pulpwood from that unit will be mandatory.
 - (e) Chipwood may be removed at the Purchaser's option according to a written plan approved by the State (Forester-in-charge).
 - (f) Fuel wood (hogfuel) may be removed at the Purchaser's option according to a written plan approved by the State (Forester-in-charge).
 - (g) Topwood may be removed at the Purchaser's option according to a written plan approved by the State (Forester-in charge).
- (3) All damaged or diseased trees designated by the State (Forester-in-charge) shall be felled and merchantable products removed.

b. Utilization and Merchantability Standards

- (1) A sawlog is merchantable if it meets the following minimum specifications:
 - (a) A top diameter inside bark of 5.5 inches. A length of 8 feet, 6 inches and a net scale of 33.33 percent.
- (2) Merchantable cedar products are any chunk, log, top, or longbutt not meeting sawlog specifications, 8 feet or more in length, with a minimum shell of 3.5 inches usable wood, 33.33 percent usable wood for cedar products, and contains at least 10 board feet. Cedar product material will be measured using scaling techniques according to the guidelines in the latest edition of the IDAHO DEPARTMENT OF LANDS Log Scaling Handbook.
- (3) A merchantable pulplog is a chunk, log, top or longbutt not meeting sawlog or topwood specifications and is 12 feet or more in length, has pulpwood scale of at least 50 percent, and contains at least 10 board feet. Pulpwood will be measured using scaling techniques according to the guidelines in the latest edition of the IDAHO DEPARTMENT OF LANDS Log Scaling Handbook. Material removed with less than the above requirements will be scaled and billed at the contract price.
- (4) Topwood is that material which extends beyond the 5.5 inch minimum top diameter of a log meeting sawlog specifications. Topwood price will be based on the State quarterly minimum stumpage prices. Loads may be sample scaled at the discretion of the State. Sawlogs and cedar products exceeding topwood specifications will be measured using scaling techniques according to the guidelines in the latest edition of the IDAHO DEPARTMENT OF LANDS Log Scaling Handbook. Topwood may be manufactured, hauled and billed as designated below:

PROPOSED SPECIAL TERMS OF SALE
CR425085, SELWAY FIRE

6/8/2015

- (a) Purchaser may choose to extend log lengths beyond the 5.5 inch minimum top diameter of a log meeting sawlog specifications to achieve a preferred log length. If topwood is manufactured and hauled attached to merchantable sawlog material, topwood is that material which extends beyond the 5.5 inch minimum diameter of a log meeting sawlog specifications. Topwood manufactured and hauled attached to merchantable sawlogs will be sold on a lump sum basis. Lump sum payment must be received in advance of hauling topwood attached.
- (b) Purchaser may choose to manufacture and haul topwood separately from other forest products. If hauled separately, topwood is defined as having a top diameter inside bark of less than 5 inches and a total length of 20 feet plus trim or less. Total length may include a minimal volume of merchantable sawlog. Harvest operations which assure maximum recovery of higher value products are required before topwood is manufactured. Topwood manufactured and hauled separately will be sold by weight.
- (5) Chipwood is any chunk, log, top, longbutt or tree designated for harvest, which does not contain merchantable sawlog, topwood, pulpwood or cedar product material. Chipwood volume will be billed lump sum or by weight at the pulpwood price. Loads may be sample scaled at the discretion of the State. Sawlog, pulpwood and cedar product material will be measured using scaling techniques according to the guidelines in the latest edition of the IDAHO DEPARTMENT OF LANDS Log Scaling Handbook.
- (6) Fuel wood is any limb, chunk, log, top, longbutt or tree designated for harvest, which does not contain merchantable sawlog, pulpwood or cedar product material. Fuel wood will be sold lump sum or by weight based on a minimum rate of \$0.20 per green ton.

c. Harvest Procedures

- (1) Logging practices and equipment which minimize damage to soil, reproduction, and reserve timber shall be required.
- (2) Stream channels shall be kept clear of slash and other debris and no ground based equipment or decking will be permitted in these areas. Crossing may be allowed with prior approval of the State (Forester-in-charge). Ground based equipment will not be allowed within 75 feet of Class I stream channels or within 30 feet of Class II stream channels or wet areas.
- (3) Slash and other debris deposited in any stream as a result of logging operations shall be removed and deposited at least 5 feet above the ordinary high watermark using care to minimize damage to stream channels and banks.
- (4) The Purchaser shall ensure that prior to moving to the sale area, all off-road equipment is free of soil, seeds, vegetative matter, or other debris that could contain or hold seeds, as determined by the State (Forester-in-charge). "Off-road equipment" includes all logging and construction machinery or vehicles that travel off designated roads or adjacent landings as specified on the sale area map. Equipment shall be considered clean when a visual inspection does not disclose such material. Disassembly of equipment components or specialized inspection tools is not required. Cleaning shall not take place on State land.
- (5) Felling and Bucking
 - (a) Feller bunchers will not be allowed on slopes over 45 percent.
 - (b) Feller bunchers shall be restricted to State (Forester-in-charge) approved skid/felling trails. Exceptions must be approved in advance by the State (Forester-in-charge).
 - (c) Stump height shall not exceed 12 inches above ground line as measured on the uphill side of the stump on tractor yarding areas. Stump height may exceed 12 inches above ground line on cable yarding areas or as approved in writing by the State (Forester-in-charge).
 - (d) All trees shall be cut to a top diameter inside bark of 5.5 inches. If the Purchaser elects to remove topwood according to a written plan approved by the State (Forester-in-charge), trees may be cut to a top diameter less than 5.5 inches, as directed by the State (Forester-in-charge).

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- (e) Limbing, topping and longbutting shall be done prior to skidding on cable yarding areas in unit 1 or as designated by the State (Forester-in-charge). Limbing, topping, and longbutting shall be done on the landing on the tractor yarding areas.

(6) Yarding

- (a) Tractor, prescriptive and cable yarding methods are required on this sale. These methods shall be used in areas designated for them by the State (Forester-in-charge), as shown on the attached map (Exhibit A).

- (b) Tractor

- 1) Tractors shall be equipped with a properly functioning winch with at least 50 feet of winch line.
- 2) Grapple skidders shall only be allowed on trails designated by the State (Forester-in-charge).
- 3) The location and use of new and existing trails shall be approved by the State (Forester-in-charge) prior to felling operations. The Purchaser may be required to flag trail locations for approval by the State (Forester-in-charge).
- 4) Trails shall not follow the bottoms of draws or streams.
- 5) Go-back trails shall only be constructed on locations approved by the State (Forester-in-charge).
- 6) Tractors shall be kept on designated trails. Where the winch line will not reach, the tractors may be backed off the trail in the direction of the line of skid.
- 7) Feller bunchers may be allowed to bunch material for the processor with prior written authorization from the State (Forester-in-charge). Feller bunchers shall be restricted to State (Forester-in-charge) approved felling/skid trails. Exceptions must be approved in advance by the State (Forester-in-charge).

- (c) Prescriptive Yarding

- 1) Approximately 58 acres of the sale area shall be prescriptive yarded. A harvest plan will be developed by the purchaser and approved by the State (Forester-in-charge), with the following constraints:
 - (a) No constructed skid trails except as authorized by the State (Forester-in-charge).
 - (b) No use of ground based yarding equipment on slopes exceeding 45%.
 - (c) All other terms of the contract related to tractor and cable yarding will be enforced in prescriptive harvesting areas.

- (d) Cable

- 1) Approximately 68 acres of the cable yarding area may require tracked cable yarding equipment capable of traveling off road up to 45 percent gradient, as approved by the State (Forester-in-charge).
- 2) Off road cable yarding may require forwarding logs with distances up to 800 feet from the yarding location to a drivable road.
- 3) Cable yarding equipment shall be equipped with a locking carriage and shall have lateral skidding capability of 75 feet.
- 4) Intermediate supports, extended tailholds, elevated tailholds, supplemental anchors, forwarding, or extended yarding distances may be required as determined by the State (Forester-in-charge).

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- 5) Complete suspension is required when yarding across stream protection zones (SPZ's) and riparian management zones (RPZ's).
 - 6) Rub trees shall be used to prevent excessive sideways movement of the mainline and skyline.
 - 7) Reserve trees will not be used as rub, guy, or tailhold trees without prior written approval from the State (Forester-in-charge). Approved protective devices will be used when anchoring to leave trees.
 - 8) Any damaged rub, guy, or tailhold tree designated by the State (Forester-in-charge) shall be felled and merchantable products removed.
- (7) Yarding across or along main, secondary, and surfaced roads shall be approved in advance by the State (Forester-in-charge). Damage to roads shall be repaired by the Purchaser at their expense, as directed by the State (Forester-in-charge).
 - (8) Optional products yarded to the landing, but not hauled, shall be decked separately from other landing debris as designated by the State (Forester-in-charge).
 - (9) Landing and decking locations shall be approved by the State (Forester-in-charge) prior to construction.
 - (10) Peeling or splitting of cedar product material will not be allowed on State land.
 - (11) Cedar product material shall be hauled on log trucks when possible. Products too short to be hauled on standard log trucks may be hauled on other trucks with prior written approval of the State (Forester-in-charge). Any material hauled on other than approved trucks shall be considered trespass.
 - (12) Logging operations shall not be conducted when conditions are such that excessive soil compaction, erosion, or tree damage will result, as determined by the State (Forester-in-charge).

d. Hazard Management

- (1) Landing debris and debris located along sale roads, except debris within a constructed filter windrow, shall be grapple piled to facilitate burning. Slash and debris deposited on the fill slope of the roads and landings shall also be pulled up and piled. Piles will be dirt free and constructed as approved by the State (Forester-in-charge) as logging progresses.
- (2) Piling of debris within the SPZ of any stream, within 30 feet of any wet area, or within 20 feet of any living tree shall not be permitted.
- (3) No slash or logging debris shall be left outside the marked cutting unit or sale boundary.

e. Road Maintenance and Erosion Control Specifications

- (1) Hauling will not be allowed between November 1 and April 30 unless erosion control measures specified by the State (Forester-in-charge) are installed by the Purchaser at his expense.
- (2) Erosion control specifications will be as follows:
 - (a) Erosion control measures shall be installed as operations progress, at the end of each logging season, prior to freeze-up when winter logging is anticipated, or as designated by the State (Forester-in-charge).

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- (b) Cross-ditches installed in roads, skid trails, and firelines shall slope diagonally down grade at an adequate angle to divert water from the road or skid trail. Each ditch shall be cut into the roadbed, tied to the cut bank, sloped to the shoulders, open at the lower end, and capable of diverting water flow completely off the road at that point.
- (c) Rolling dip or cross-ditch spacing shall be approximately as follows: 0-4 percent, 150 feet; 5-10 percent, 100 feet; 11 percent and greater, 50 feet; or as designated by the State (Forester-in-charge).
- (3) The Purchaser shall be responsible for maintaining any and all gate closures accessing the sale area during periods when public access is restricted. The Purchaser will furnish a lock to provide access during these closure periods. The Purchaser will be responsible for any and all damage caused by said gates being left open by the Purchaser or the Purchaser's employees, contractors, subcontractors, agents or guests.
- (4) Damage to culverts, fences, cattle guards, gates, and other improvements will be repaired immediately. Repairs shall be made to the previous conditions as determined by the State (Forester-in-charge) or the State (Forester-in-charge) will hire the work done at the Purchaser's expense.
- (5) Access roads are defined as beginning on the sale area and terminating at the State Property Line.
- (6) Access roads will be kept open at all times as designated by the State (Forester-in-charge).
- (7) All roads designated by the State (Forester-in-charge) will be barricaded to vehicular traffic.
- (8) Access roads shall be maintained to acceptable standards as determined by the State (Forester-in-charge).
- (9) Surfaced access roads are defined as beginning at Selway River County Road and terminating on the USFS 652 Road at the State Property Line.
- (10) Maintenance work shall include keeping the road surface graded, the berm on the outside edge removed, the inside ditches open, culverts and culvert catch basins clean, rolling dips and sediment traps maintained, and dust abatement as needed. Side casting of surface material shall be minimized by spreading the material on the road surface. Damaged culverts will be repaired or replaced at the Purchaser's expense.
- (11) Access roads will be graded within 3 days of notification by the State (Forester-in-charge).
- (12) Cross-ditching and road maintenance shall be done in a satisfactory manner or the State will hire it done at the Purchaser's expense.
- (13) Snow berms resulting from winter logging will be removed or breached by the Purchaser as designated by the State (Forester-in-charge).

f. General Sale Administration

- (1) A unit will be cleared when contractual requirements have been satisfactorily completed on that unit, as determined by the State (Forester-in-charge).
- (2) Logging will proceed in a systematic manner through the sale area as determined by the State (Forester-in-charge).
- (3) When final clearance has been granted by the State (Forester-in-charge) for any unit, the State reserves the right to initiate forest improvement and hazard reduction activities on that unit.
- (4) The Purchaser shall post warning signs regarding hauling and logging operations along roads and at access road junctions and shall utilize flaggers with felling operations are next to the USFS 652 Road and at other locations requested by the State (Forester-in-charge).

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- (5) Roving tracked logging and/or road construction equipment across the bridge crossing of Selway River is not permitted without prior written approval from the State (Forester-in-charge). Weight limits established for the Swiftwater Bridge on the USFS 470 Road shall be adhered to for the hauling of forest products and equipment.
- (6) Hauling operations from timber harvesting and development work will not be allowed from noon on Friday through Sunday and on holidays without prior approval of the State (Forester-in-charge).
- (7) The Purchaser shall submit a written Development and Harvest Plan to include approximate start-up and completion dates for the various phases of development and harvest work within two weeks of the contract execution. The Development and Harvesting Plan shall be approved by the State (Forester-in-charge). Alteration to the plan shall be in writing and approved by the State (Forester-in-charge).

g. Developments

- (1) Approximate development locations are shown on the attached map and/or development log. The State reserves the right to make reasonable alterations in the system through written directions to the Purchaser.
- (2) A track mounted excavator, with an operating thumb, will be required as designated by the State (Forester-in-charge) for the following:
 - (a) road construction
 - (b) areas with sideslopes greater than 40 percent
 - (c) culvert installation and/or removal
 - (d) cut slope reconstruction
 - (e) filter windrow construction
 - (f) right-of-way slash piling
- (3) At locations described in the development log, fill shall be placed in lifts with each lift compacted by approved equipment. Fill lifts shall not exceed 8 inches in loose thickness. The fill material shall not contain rocks greater than 8 inches in diameter. All fill material shall have a moisture content, which allows compaction. Each lift shall be compacted by a vibratory roller type compactor.
- (4) Approximately 3.43 miles of spur road shall be constructed on locations designated by the State (Forester-in-charge). The standards of construction are:
 - (a) Finished road construction will be kept concurrent with pioneering. A maximum of 1,500 feet of unfinished road will be allowed as determined by the State (Forester-in-charge). Failure to comply will result in cessation of pioneering until roads are brought up to standard.
 - (b) Individual roads will be constructed to grades designated by the State (Forester-in-charge).
 - (c) Clearing and windrowing and/or piling of slash and debris at the downslope edge of the cleared area shall be required prior to earthmoving.
 - (d) The area affected by the disposal of right-of-way slash and debris shall be kept to a minimum by concentrating this material at selected locations in piles at the toe of the fill slope.
 - (e) Right-of-way slash will not be piled or windrowed against standing trees.
 - (f) Right-of-way slash will be piled with a grapple as designated by the State (Forester-in-charge).
 - (g) On ground with side slopes greater than 45 percent, slash will be windrowed at the toe of the fill slope. On ground with side slopes less than 45 percent, slash will be piled as specified by the State (Forester-in-charge).

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- (h) All stumps, root wads, and other organic debris shall be grubbed within the cut slope, running surface, and fill zones.
- (i) New construction and reconstruction shall not be permitted when either frozen soil or excessive soil moisture prevents satisfactory soil compaction as determined by the State (Forester-in-charge).
- (j) Spur Roads
 - 1) Right-of-way clearing width: 60 feet slope distance with additional width as necessary to accommodate cuts and fills, 5 feet above the top of the cut slope to 10 feet below the toe of the fill slope.
 - 2) Excavated width: 16 feet with a 1 foot inside ditch, as required.
 - 3) Road surface shall be shaped as designated in the development log.
 - 4) Turnouts: at least 4 per mile, plus 1 at the end of each road. Landings of suitable width will suffice.
- (k) All stems along the road, which protrude or lean into the residual stand, must be felled and merchantable products removed.
- (l) All stumps shall be removed for a distance of 2 feet above the top of the cut slope as measured by the State (Forester-in-charge).
- (m) Rolling cross drainage structures will be built as specified in the development log and the design on file at the local Idaho Department of Lands office.
- (n) Unless otherwise designated in the development log, cut slopes shall be approximately as follows: 0-60 percent side slope 1:1 ratio (horizontal to vertical), over 60 percent side slopes 3/4:1 ratio (horizontal to vertical) with full benching required and surplus material deposited at locations designated by the State (Forester-in-charge).

Fill slopes shall approximate but not exceed a 1.5:1 (horizontal to vertical). At locations designated in the development log or unstable areas as determined by the State (Forester-in-charge), a horizontal or insloped bench shall be excavated into natural soil at the toe of the fill slope before the fill is placed.
- (5) Approximately 0.39 miles of spur road shall be reconstructed and/or improved on locations designated by the State (Forester-in-charge). The standards are:
 - (a) Individual roads will be reconstructed to grades specified by the State (Forester-in-charge).
 - (b) Clearing and windrowing and/or piling of slash and debris at the toe of the cleared area shall be required prior to earthmoving.
 - (c) The area affected by the disposal of right-of-way slash and debris shall be kept to a minimum by concentrating this material at selected locations in piles at the toe of the fill slope.
 - (d) Right-of-way slash will not be piled or windrowed against standing trees.
 - (e) Right-of-way slash will be piled with a grapple as specified by the State (Forester-in-charge).
 - (f) All stumps, root wads, and other organic debris shall be grubbed within the cut slope, running surface, and fill zones.
 - (g) Spur Roads
 - 1) Right-of-way clearing width: 40 feet slope distance with additional width as necessary to accommodate cuts and fills, 5 feet above the top of the cut slope to 10 feet below the toe of the fill slope.

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- 2) Excavated width: 16 feet with a 1 foot inside ditch, as required.
- 3) Road surface shall be shaped as designated in the development log.
- 4) Turnouts: at least 1 per mile, plus one at the end of each road. Landings of suitable width will suffice.
- (h) All stems along the road, which protrude or lean into the residual stand must be felled and merchantable products removed.
- (i) All stumps shall be removed for a distance of 2 feet above the top of the cut slope as measured by the State (Forester-in-charge).
- (j) Rolling cross-dip drainage structures will be built as specified in the development log and the design on file at the local Idaho Department of Lands office.
- (k) Unless otherwise designated in the development log, cut slopes shall be approximately as follows: 0-60 percent side slope 1:1 ratio (horizontal to vertical), over 60 percent side slopes 3/4:1 ratio (horizontal to vertical) with full benching required and surplus material deposited at locations designated by the State (Forester-in-charge).

Fill slopes shall approximate but not exceed a 1.5:1 (horizontal to vertical). At locations designated in the development log or unstable areas as determined by the State (Forester-in-charge), a horizontal or insloped bench shall be excavated into natural soil at the toe of the fill slope before the fill is placed.

- (6) The Purchaser shall furnish and install the following amounts of new corrugated steel culvert with annular ends and new annular corrugated steel bands as needed. Spiral corrugated culvert will be acceptable providing re-corrugated ends or other acceptable banding methods are used at connections. All culverts shall meet requirements of the American Highways and Transportation Officials (AASHTO) specifications and shall be installed according to the manufacturer's recommendations:

<u>Lineal Feet</u>	<u>Band Width</u>	<u>Diameter</u>	<u>Gauge</u>	<u>Corrugation Width</u>
1,270	12"	24	16	2 2/3 x 1/2
330	12"	36	14	3 x 1

- (7) Culverts will be installed at locations designated by the State (Forester-in-charge). All culvert installations shall comply with the following specifications:
 - (a) IDAPA 37, TITLE 03, Chapter 07, Stream Channel Alteration Rules.
 - (b) All culverts shall be bedded in an earth foundation of uniform density which has been shaped to the desired camber, and to conform to the shape of the pipe for at least 10 percent of its diameter. The bedding shall afford a uniform, firm and true bed, free from projecting stones, roots, or other irregularities for a depth under the culvert of not less than 0.5 inch per foot height of fill over the pipe with a minimum allowable thickness of 4 inches. Fill material shall be reasonably well graded and compacted and shall not contain large quantities of silt, sand, organic matter, or debris.
 - (c) All culverts shall be so laid that the distance from the finished road surface to the top of the pipe shall not be less than 0.33 of the diameter of the pipe with a minimum of 12 inches, or as designated by the State (Forester-in-charge).
 - (d) All culverts shall be laid with separate sections joined firmly together and shall coincide closely with the existing stream channel, both in gradient and in alignment, or as designated in the development log. Catch basins and riprap are required at the upper end of culverts designated in the development log. Splash basins with riprap are required at the lower end of culverts designated in the development log and in cases where water will erode the fill, as designated by the State (Forester-in-charge).
 - (e) All fills over and around culverts shall be compacted with a mechanical tamper. Each lift will have a minimum of 3 complete passes, with each lift having a maximum thickness of 6 inches.

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- (f) Any culvert which is not of true alignment, shows any undue settlement after being laid, is damaged, or is not functioning properly, shall be taken up and relaid or replaced by the Purchaser.
 - (g) Any unused culvert and associated material becomes the property of the State and shall be delivered in good condition to a location specified by the State (Forester-in-charge) before cancellation of the sale contract.
 - (h) All culvert installation shall be done during periods of low water.
 - (i) Riprapping shall be completed at the time of culvert installation wherever there is potential for erosion.
- (8) Roads will be brought up to final grade near stream crossings at time of culvert installation as designated by the State (Forester-in-charge). Failure to comply will result in immediate cessation of all road construction activities.
- (9) Logs from right-of-way timber only may be transported on semi-finished roads. Individual roads shall be completed to specified standards before general logging operations will be permitted on adjacent areas. Any deviation must have prior written approval of the State (Forester-in-charge).
- (10) Surfacing
- (a) The Purchaser shall furnish, apply, and compact approximately 200 cubic yards of large pit run rock 36" inches diameter maximum size for culvert armoring and slump repair on locations designated by the State (Forester-in-charge).
 - (b) The Purchaser shall apply, and compact approximately 3,000 cubic yards of 4 inch minus pit run rock on locations designated by the State (Forester-in-charge).
 - (c) The Purchaser shall apply and compact 4 inch minus pit run rock for a surface layer, at designated locations, to the following specifications:
 - 1) Length of Road – 0.78 miles
 - 2) Width of Rocked Driving Surface – 16 feet plus turnouts
 - 3) Compacted Depth of Rock – 6 inches
 - (d) Pit run rock shall be compacted with a (vibratory) roller.
 - (e) Prior to surfacing, the Purchaser will complete the following items:
 - 1) Widen the road to a 16 foot subgrade surface.
 - 2) Construct a 1 foot inside ditch.
 - 3) Clean the existing ditches and culvert catch basins.
 - 4) Grade the subgrade.
 - 5) Outslope, inslope, or crown the subgrade as specified in the development log or by the State (Forester-in-charge).
 - (f) A license agreement, including reclamation plan from Idaho Department of Lands for development and use of the Wilson Ridge State rockpit is available for inspection at the Idaho Department of Lands office in Kamiah, Idaho. The performance bond covering this contract will guarantee all terms and conditions of this permit and reclamation plan.
 - (g) Rock will not be applied when subgrade conditions are not suitable as determined by the State (Forester-in-charge).

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- (h) Rocking shall be completed before hauling of logs will be permitted, with the exception of right-of-way timber. Any deviation must have prior written approval of the State (Forester-in-charge).
 - (i) Compliance will be determined by the State (Forester-in-charge) based on random measurements of specified minimum width, length and depth of gravel placed on the road.
 - (j) Hard rock in place or boulders, which protrude from and extend above the road surface shall be removed or covered by a minimum of 6 inches of approved cushion material. Cushion material shall consist of crushed or angular pit run rock with a maximum particle size of 4 inches. Cushion material shall be applied to match the existing road grade and feathered into the road bed to create a smooth running surface.
- (11) Any additional roads the Purchaser wishes to construct shall be built to the above listed specifications and shall require prior written approval from the State (Forester-in-charge).
 - (12) The Purchaser shall furnish and install 1 painted gate(s) constructed according to plans on file with the Idaho Department of Lands. Purchaser shall install gate(s) at location(s) specified by the State (Forester-in-charge) or as directed in the development log.
 - (13) Improvement work performed by the Purchaser relating to roads will be inspected by the State (Forester-in-charge) upon completion, and acceptance will be given when it is determined improvements comply with contract specifications.
 - (14) The Purchaser shall purchase 100, six foot metal "T" posts to be installed of above culverts for debris traps as designated by the State (Forester-in-charge). All debris traps will be installed concurrent with culvert installation and maintained during the life of the contract. Any unused posted will be returned to the local Idaho Department of Lands office.

h. Access

- (1) Access is available over roads jointly owned by Mr. Morgan Wright and Mr. Rick Sutter. Easement was obtained by the USFS making these roads all access public roads. The road will be maintained in accordance with the agreement(s) available for inspection at the local Idaho Department of Lands office.
- (2) The Purchaser shall comply with all requirements and regulations stipulated in the above access agreement(s).
- (3) The performance bond covering this contract shall guarantee all terms of the above access agreement(s).