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7 SUPERIOR COURT OF WASHINGTON  
8 FOR LEWIS COUNTY

9 CENTER FOR RESPONSIBLE FORESTRY, )

10 Appellant, )

NO.

11 v. )

12 WASHINGTON STATE DEPARTMENT OF )  
13 NATURAL RESOURCES, BOARD OF )  
14 NATURAL RESOURCES, and )  
COMMISSIONER OF PUBLIC LANDS )  
HILARY FRANZ, in her official capacity, )

NOTICE OF APPEAL OF THE POINT  
BLANK TIMBER SALE AND  
ASSOCIATED ENVIRONMENTAL  
REVIEW

15 Respondents. )  
16 )  
17 )

18 **I. INTRODUCTION**

19 1. On November 2, 2021, the Washington Board of Natural Resources (“Board”)  
20 authorized the Point Blank Timber Sale, No. 30-101103, SEPA File No. 21-092901 (the “Point  
21 Blank Project”), allowing the Washington Department of Natural Resources (“DNR”) to  
22 auction 83 acres of publicly owned timber primarily in Lewis County. A copy of the Point  
23 Blank Notice of Sale is attached to this Notice of Appeal. A video recording of the Board’s vote  
24 on the Point Blank Timber Sale (and others) is available here:  
25 <https://www.tvw.org/watch/?clientID=9375922947&eventID=2021111033>.  
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1           2.       The Point Blank Project would allow loggers to clearcut up to 83 acres of  
2 naturally regenerated, low-elevation forest in the Chehalis River Basin, including trees that are  
3 up to four feet in diameter and over 200 feet tall. The logging operation would convert a natural  
4 and structurally complex forest into a commercial tree plantation, permanently transforming the  
5 character of the land and composition of the forest, and destroying native ecosystems and  
6 critical wildlife habitat.  
7

8           3.       The Board approved the Point Blank Project after DNR determined that it would  
9 not have a “probable significant adverse impact on the environment” and issued a threshold  
10 Determination of Nonsignificance (“DNS”) under the State Environmental Policy Act  
11 (“SEPA”).  
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26       *A structurally complex forest within the Point Blank Project area. (Photo courtesy of the*  
27       *Center.)*

1           4.       In performing this threshold SEPA evaluation, DNR claimed the cumulative  
2 effects of the Point Blank Project would be mitigated through compliance with its Habitat  
3 Conservation Plan (“HCP”), which it developed in consultation with the U.S. Fish and Wildlife  
4 Service as part of its compliance with the federal Endangered Species Act.  
5

6           5.       The Board adopted DNR’s Policy for Sustainable Forests (“Sustainable Forest  
7 Policy”) in part to ensure that state trust lands are managed in accordance with the HCP. The  
8 Sustainable Forest Policy requires DNR to work to provide 10 to 15 percent of each HCP  
9 planning unit as “older-forest” within 70 to 100 years (the “Older Forest Target”). DNR has  
10 developed a strategy to achieve this target in other planning units through the creation of forest  
11 land plans. However, it has failed to develop such a plan for the South Coast HCP planning unit  
12 in which the Point Blank Project is located.  
13

14           6.       The Point Blank Project, and other future timber sales that DNR has planned in  
15 the Chehalis River Basin, would clearcut forests capable of contributing to the Older Forest  
16 Target in the South Coast HCP planning unit. The SEPA checklist for the Point Blank Project  
17 states that the Older Forest Target will be met in the South Coast HCP planning unit by the year  
18 2100, based on "landscape assessments made in May 2021", but DNR's own analysis  
19 contradicts this statement. With no plan in place to meet its Older Forest Target, DNR has no  
20 basis for claiming that either its Sustainable Forest Policy or the HCP will mitigate the effects  
21 of these timber sales.  
22

23           7.       In reaching its DNS for the Point Blank Project, and then approving that sale,  
24 DNR and the Board thus failed to account for the adverse direct, indirect, and cumulative  
25 impacts of the sale on DNR’s ability to comply with its own policy.  
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1           8.       The Center for Responsible Forestry (the “Center”) hereby appeals the Board’s  
2 approval of the Point Blank Project because it was arbitrary and capricious and not in the best  
3 interests of the state, and thus violated the Public Lands Act, RCW Title 79, and because DNR  
4 failed to make its threshold determination based on sufficient information to evaluate the impact  
5 of the project, in violation of SEPA, RCW Ch. 43.21C.  
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## 7                                   **II.       JURISDICTION AND VENUE**

8           9.       The Point Blank Project is located entirely within Lewis County. Jurisdiction  
9 and venue are appropriate before this Court pursuant to RCW 79.02.030 (Public Lands Act)  
10 and RCW 43.21C.075 (SEPA). Declaratory relief is authorized under RCW 7.24.010 and  
11 injunctive relief is authorized under RCW 7.40.010.  
12

13           10.      This suit is timely under RCW 79.02.030 because it was filed and served within  
14 30 days of the Board’s approval of the Point Blank Project on November 2, 2021. Appellant  
15 participated in all stages of public comment for the Point Blank Project and has therefore  
16 exhausted all available administrative remedies.  
17

## 18                                   **III.       PARTIES**

19           11.      Appellant the Center for Responsible Forestry (the “Center”) is a Washington  
20 State-registered 501(c)(3) non-profit organization based in Tacoma, Washington. The Center  
21 seeks to promote a balanced approach to the management of Washington state forestlands that  
22 allows DNR to generate reliable revenue for trust beneficiaries, while preserving and  
23 accelerating the development of older forests, as required under the terms and conditions of the  
24 HCP and the Sustainable Forest Policy. The Center’s mission is to preserve the genetic,  
25 biological, and ecological legacies of the native forests that once dominated Western  
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1 Washington for the benefit of all people, and its members have a particular interest in ensuring  
2 that the state's forests are managed in a responsible and lawful manner.

3         12. The Center's members regularly visit and recreate in DNR-managed forestlands,  
4 including those in the Chehalis River Basin. The Center's members gain aesthetic enjoyment  
5 from visiting older forests and observing the wildlife that inhabits these forests. The Center's  
6 members have visited the Point Blank Project area in the past and have plans to do so again in  
7 the near future. Their enjoyment of the area will be diminished if the logging approved by the  
8 Point Blank Project goes forward, and the structurally complex forests in that region are  
9 degraded or destroyed. Those same interests will be protected if the Court issues injunctive  
10 relief to prevent logging from going forward under the Point Blank Project.  
11

12         13. DNR is an agency of the state of Washington and is responsible for managing  
13 forests on Washington trust lands.  
14

15         14. The Board sets policies that guide how DNR manages state trust lands. Its  
16 powers and duties include appraisal and approval of timber sales on state forestlands prior to  
17 auction. The Board must review and approve timber sales on state trust land before those sales  
18 are presented for auction.  
19

20         15. The Commissioner of Public Lands ("Commissioner"), Hilary Franz has a seat  
21 on the Board and is the administrator for DNR, with jurisdiction over all the powers, duties,  
22 and functions of DNR, except those specifically assigned to the Board.

23         16. DNR's Forest Resources Division manages state trust lands ("DNR State  
24 Lands"), and the Forest Practices Division ("DNR Regulatory") reviews forest practices  
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1 applications. DNR State Lands develops potential timber sales and submits them to DNR  
2 Regulatory for review and approval.<sup>1</sup>

#### 3 IV. LEGAL BACKGROUND

4 17. The Public Lands Act authorizes and governs DNR's management of public  
5 lands, including land suitable for state forests that the state has acquired in various ways, such  
6 as ceded by the federal government for the state to manage. These lands are known as the "state  
7 lands" and the "state forestlands." RCW 79.02.010(14) and .010 (15). DNR must prepare and  
8 auction timber sales of state-owned lands to generate revenue on a sustained yield basis. RCW  
9 79.10.320. DNR State Lands administers the Public Lands Act.

10 18. The Forest Practices Act, RCW Ch. 76.09, regulates logging on both state and  
11 private lands in Washington. Under the Forest Practices Act, a landowner may not grow,  
12 harvest, process, or manage timber absent an approved forest practices application authorizing  
13 that activity. DNR Regulatory administers the Forest Practices Act.

14 19. SEPA is Washington's basic environmental charter, which imposes both  
15 substantive and procedural obligations on DNR's management of public lands.

16 20. The purposes of SEPA are: (1) to declare a state policy which will encourage  
17 productive and enjoyable harmony between humankind and the environment; (2) to promote  
18 efforts which will prevent or eliminate damage to the environment and biosphere; (3) to  
19 stimulate the health and welfare of human beings; and (4) to enrich the understanding of the  
20 ecological systems and natural resources important to the state and nation. RCW 43.21C.010.  
21 SEPA is designed to provide decision makers and the public with full information about the  
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27 <sup>1</sup> The term "DNR" refers to DNR State Lands unless specified.

1 potential adverse environmental impacts of a proposed action, and to ensure that decisions are  
2 made after thorough scientific analysis, consideration of expert comments, and public scrutiny.

3         21. Under SEPA, an agency must consider environmental information – including  
4 impacts, alternatives, and mitigation – before committing to a particular course of action. WAC  
5 197-11-055(2)(c). SEPA requires an agency to consider all environmental and ecological  
6 factors to the fullest extent when taking major actions significantly affecting the environment.  
7 When describing the environmental impacts, an agency must consider direct, indirect, and  
8 cumulative impacts.  
9

10         22. SEPA requires DNR to prepare an Environmental Checklist for each timber sale  
11 (“SEPA Checklist”), so it can conduct a threshold analysis to determine if that sale will have a  
12 “probable significant, adverse environmental impact.” RCW 43.21C.031. An environmental  
13 impact is considered to be “significant” if there is a reasonable likelihood that it will have more  
14 than a moderate adverse impact on environmental quality. WAC 197-11-794. If an agency  
15 makes a determination of significance, it must prepare an environmental impact statement that  
16 includes analysis of reasonable alternatives that achieve similar goals with less environmental  
17 impact. Environmental impacts include factors such as impacts to fish and wildlife, plants and  
18 animals, surface water quality and runoff, aesthetics, recreation, and parks. WAC 197-11-752;  
19 WAC 197-11-444.  
20

21         23. SEPA requires that lead agencies conduct their analysis with up-to-date  
22 information that accurately reflects the impacts of a proposed project. In evaluating an  
23 Environmental Checklist for a proposed timber sale, DNR must “make its threshold  
24 determination based upon information reasonably sufficient to evaluate the environmental  
25 impact of a proposal.” WAC 197-11-335. When information is uncertain, DNR must obtain  
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27

1 accurate information and perform a new environmental review before proceeding with the  
2 project. *See* WAC 197-11-335. If significant new information arises after a SEPA threshold  
3 determination indicating that a proposal will have significant adverse environmental impacts,  
4 DNR must rescind its threshold determination and prepare a new analysis. *See* WAC 197-11-  
5 340(3)(a)(ii).  
6

7 24. The threshold determination is an agency's initial SEPA assessment, and "must  
8 indicate that the agency has taken a searching, realistic look at the potential hazards and, with  
9 reasoned thought and analysis, candidly and methodically addressed those concerns." *Conserv.*  
10 *Nw. v. Okanogan Cty.*, No. 33194-6-III, 2016 Wash. App. LEXIS 1410, \*88-89 (Ct. App. June  
11 16, 2016) (unpublished decision lacking binding authority); *see also* WAC 197-11-335. A  
12 "significance" determination "involves context and intensity" and "the context may vary with  
13 the setting." WAC 197-11-794.  
14

## 15 V. STATEMENT OF THE CASE

16 25. DNR's timber sales must comply with the terms and conditions of the HCP and  
17 the Sustainable Forest Policy, *see* WAC 332-41-665(1)(f), which together are used to constitute  
18 mitigation for logging on state forestlands.

19 26. The HCP was prepared by DNR and approved by the U.S. Fish and Wildlife  
20 Service and the National Marine Fisheries Service, as part of DNR's assurance that its timber  
21 management would comply with the Federal Endangered Species Act (16 U.S.C. § 1531 *et*  
22 *seq.*). Timber sales that may result in the incidental take of federal threatened or endangered  
23 species must satisfy the terms and conditions of the HCP.  
24

25 27. The HCP's multispecies conservation strategy requires DNR to provide suitable  
26 habitat for unlisted "animal species of concern and other unlisted animal species." It names 62  
27



1 animal species of concern, and provides that other species are likely to be added to the list,  
2 because it is “difficult to predict which species are at the brink of ‘at risk.’” The HCP requires  
3 multispecies conservation strategies to be “implemented on DNR-managed lands in the five  
4 west-side planning units,” which include the South Coast HCP planning unit.

5  
6 28. DNR’s Sustainable Forest Policy guides its management and stewardship over  
7 state trust lands and was written in part to ensure that DNR complies with the HCP. Along with  
8 the associated HCP implementation procedures, the Sustainable Forest Policy constitutes  
9 DNR’s plan for implementing the HCP. As DNR states in the SEPA Checklist for the Point  
10 Blank Project, compliance with the HCP implementation procedures “substantially helps the  
11 Department to mitigate for cumulative effects” of specific timber sales.

12  
13 29. The Sustainable Forest Policy defines the preservation of biodiversity as a  
14 “fundamental guiding principle for sustainable forest management.” It directs DNR to protect  
15 wildlife species and habitats by working to conserve “upland, riparian, and aquatic wildlife  
16 species, including fish and their habitats, species listed as threatened and endangered, and non-  
17 listed species...with a focus on ecosystem sustainability and the conservation of biodiversity  
18 across forested landscapes.”

19  
20 30. A core objective of the multispecies conservation strategy is to provide 10 to 15  
21 percent of forests within each HCP planning unit in the most structurally complex stage of stand  
22 development (called the “fully functional stage”) within 100 years. The HCP indicates that a  
23 minimum of 150 years is required for a forest to reach the fully functional stage of development.

24 31. The Sustainable Forest Policy lists as one of its intended outcomes to “meet a  
25 10 to 15 percent Older Forest Target for each Western Washington HCP planning unit” within  
26 70 to 100 years.  
27

1           32. Under the Sustainable Forest Policy, DNR is committed to “actively manage  
2 structurally complex forests, especially those suitable stands in the botanically diverse stage of  
3 stand development, to achieve older-forest structures across 10 to 15 percent of each Western  
4 Washington HCP planning unit in 70-100 years.” Older-forest structures that contribute to this  
5 target are defined as “stands in the fully functional or niche diversification stage of stand  
6 development.”  
7

8           33. According to DNR’s guide to Identifying Mature and Old Forests, stands in the  
9 niche diversification and fully functional stages of development are generally more than 210  
10 years old.

11           34. The Sustainable Forest Policy requires DNR to identify suitable structurally  
12 complex forest stands to be managed to help meet its older forest target. It dictates that “[o]nce  
13 Older Forest Targets are met, structurally complex forest stands that are not needed to meet the  
14 targets may be considered for harvest activities.”  
15

16           35. In the Final Environmental Impact Statement for the Sustainable Forest Policy,  
17 the Board’s selected alternative “emphasizes that the 10 to 15 percent Older Forest Targets will  
18 be accomplished” within 70 to 100 years – which is equivalent to the term of the HCP.  
19

20           36. DNR’s HCP implementation procedure for Identifying and Managing  
21 Structurally Complex Forests to Meet Older Forest Targets (PR 14-004-046) dictates that “the  
22 identification and review of landscape level management strategies to achieve the 10 to 15  
23 percent older forest target will be completed during the forest land planning process that will  
24 be conducted for each HCP planning unit.”  
25  
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1           37.     DNR has completed forest land plans for other HCP planning units but has not  
2 completed a plan for the South Coast HCP planning unit within which the Point Blank Project  
3 is located.

4           38.     DNR did not make any attempt, through its SEPA threshold determination or  
5 elsewhere, to assess whether the Point Blank Project complies with DNR's implementing  
6 procedures, including PR 14-004-046. In addition, in a document obtained via the Public  
7 Disclosure laws, and titled "Identifying Stands to Meet Older Forest Targets in Western  
8 Washington," May 11, 2021, DNR effectively admits that, with respect to the South Coast HCP  
9 planning unit, DNR cannot meet the 10-15% requirement during the life of its HCP.  
10

11           39.     Until a forest land plan is completed, PR 14-004-046 requires that any proposed  
12 harvest activities in areas that are considered structurally complex forests "*must* be  
13 accompanied by the following information: a) an assessment of forest conditions using readily  
14 available information, b) an analysis of the known landscape management strategies and, c)  
15 role of the structurally complex stand in meeting Older Forest Targets." PR 14-004-046 further  
16 requires that the information DNR gathers to satisfy these requirements "be included in the  
17 [SEPA] checklist for the proposed harvest activity for public review."  
18

19           40.     DNR did not include any of this information in the SEPA Checklist for the Point  
20 Blank Project.  
21

22           41.     The Sustainable Forest Policy defines structurally complex forests as those  
23 where multiple canopies of trees and communities of forest floor plants are evident; and large  
24 and small trees have a variety of diameters and heights. Decayed and fallen trees may or may  
25 not be abundant.  
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1           42.     Historic aerial photographs of the area suggest that the units 1, 2, and 3 of the  
2 Point Blank Project were selectively logged prior to 1940, perhaps as early as the 1910 or 1920.  
3 Much of units 1, 2, and 3, and possibly unit 4 as well, currently exhibit the characteristics of  
4 structurally complex forests. These areas meet the definition of a structurally complex stand  
5 presented in the HCP and the Sustainable Forest Policy and have the potential to contribute to  
6 DNR's Older Forest Target within 70 to 100 years.  
7

8           43.     DNR did not complete the assessments and analyses required by PR 14-004-046  
9 for the Point Blank Project.

10          44.     The Final Environmental Impact Statement on Alternatives for Sustainable  
11 Harvest Management of State Trust Lands in Western Washington indicates that in 2004, only  
12 16,116 acres of land (about one percent of the state trust lands in Western Washington) could  
13 be classified as being in the niche diversification or fully functional stages of development.  
14

15          45.     Based on DNR's best available forest inventory data, less than one percent of  
16 lands within the South Coast HCP planning unit, where the Point Blank Project is located,  
17 currently meet the HCP's minimum 150-year age threshold for fully functional forests.

18          46.     DNR publicly indicated on June 1, 2021, that lands designated by DNR to meet  
19 the Older Forest Target in the South Coast HCP planning unit currently contribute only two-  
20 tenths of one percent to the required 10 to 15 percent of older forests.  
21

22          47.     Although DNR has publicly claimed that it is on track to meet its Older Forest  
23 Target in the South Coast HCP planning unit by the year 2100, information obtained from  
24 DNR's Public Disclosure Office contradicts this claim.

25          48.     In practice, DNR has assumed that existing natural areas, riparian reserves, and  
26 other forested areas specifically set aside to provide habitat for federally threatened and  
27

1 endangered species, collectively referred to as “special ecological management areas” or  
2 “conservation areas”, are sufficient to meet the needs of unlisted species, and that any stands  
3 located outside of these areas are available for timber harvest.

4  
5 49. Information obtained from DNR's Public Disclosure Office indicates that only  
6 between 3.8 to 6.3 percent of lands within the South Coast HCP planning unit are both (a)  
7 contained within one or more special ecological management areas designated to meet the Older  
8 Forest Target; and (b) old enough to reach the minimum 150-year age threshold for fully  
9 functional forests by the end of the 100-year time period established by the HCP.

10 50. DNR has not demonstrated that special ecological management areas provide  
11 the necessary habitat to mitigate for the taking of unlisted species of concern described in the  
12 HCP's multispecies conservation strategy.

13  
14 51. All of the largest special ecological management areas in the South Coast HCP  
15 planning unit are concentrated in the southwestern corner of the planning unit, primarily  
16 because that is where marbled murrelet populations prefer to nest. Lands that are designated to  
17 provide suitable habitat for the marbled murrelet do not explicitly account for the habitat  
18 requirements of unlisted species of concern.

19 52. The HCP states that “species-specific forest practices have become an inefficient  
20 and impractical means of attaining wildlife conservation objectives[.]” Instead, the HCP  
21 dictates that the multispecies conservation strategy objectives be met through “forest  
22 management that provides a variety of well-distributed, interconnected habitats,” in order to  
23 support the continued presence of suitable habitat for each species “over as much of its historic  
24 range as possible,” thereby ensuring the “successful reproduction of wide-ranging unlisted  
25 species[.]”  
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1           53.     DNR justifies the continued logging of some of the most biologically and  
2 structurally diverse forests in the South Coast HCP planning unit based on the expectation that  
3 riparian reserves and other special ecological management areas will provide the required 10 to  
4 15 percent older forests within 70 to 100 years. DNR's own calculations contradict this  
5 expectation.  
6

7           54.     More than 70 percent of all special ecological management areas in the South  
8 Coast HCP planning unit are riparian buffers. A management strategy that relies heavily on  
9 riparian buffers to achieve conservation objectives results in a fragmented landscape that is  
10 subject to edge effects, lacks interior forest habitat, lacks large conifers, and is often dominated  
11 by alder and other early successional or invasive species.  
12

13           55.     In preparation for potential approval of the Point Blank Project, DNR conducted  
14 a threshold SEPA review, and issued a DNS on August 3, 2021.

15           56.     DNR's SEPA Checklist sets forth in bare terms some potential impacts of the  
16 sale. The SEPA Checklist claims that any potential environmental impacts of the Project will  
17 be mitigated by the HCP and its multispecies conservation strategy.  
18

19           57.     Appellant submitted public comments in response to the DNS on August 18,  
20 2021, raising significant concerns regarding DNR's ability to meet its Older Forest Target in  
21 the South Coast HCP planning unit.

22           58.     DNR issued a "Notice of Final Determination" retaining the DNS on October  
23 26, 2021.

24           59.     On October 26, 2021, Appellant received a letter from Eric Wisch, DNR's  
25 Pacific Cascade Region Manager.  
26  
27

1           60.     Mr. Wisch's letter fails to provide any information or data, or references to any  
2 reports, studies, or assessments, that would suggest that existing special ecological management  
3 areas are sufficient to meet the Older Forest Target.

4           61.     Appellant submitted additional comments, and photographs of the Point Blank  
5 timber sale, to the Board on November 1, 2021, to support the conclusion, documented in its  
6 original August 18, 2021 comment letter, that existing special ecological management areas are  
7 not sufficient to meet the Older Forest Target within 70 to 100 years.

8           62.     Nevertheless, the Board approved the Point Blank Project for auction on  
9 November 2, 2021. This decision was a legal prerequisite to proceeding with the sale, because  
10 the Board must review sale appraisals and make the ultimate decision to proceed with a given  
11 timber sale over a minimum value. *See* RCW 43.30.215; RCW 79.15.060.

12           63.     If logging goes forward under the project, up to 83 acres of structurally complex  
13 forest capable of contributing to the Older Forest Target will be clearcut. DNR failed to consider  
14 how to mitigate those impacts, or whether alternative approaches (such as conducting a thinning  
15 operation or seeking alternative uses for this forest) would prevent this environmental harm.

16           64.     DNR is planning several additional timber sales in close proximity to the Point  
17 Blank Project over the next six years, including the Leaping Thespian, Baltimore, John Wilkes,  
18 Marfan, Abraham, Copper Coin, and Five Dollar Bill timber sales, which would clearcut other  
19 structurally complex forests capable of contributing to the Older Forest Target. These sales will  
20 have a significant cumulative effect on DNR's ability to meet that target within 70 to 100 years.

21           65.     The SEPA Checklist for the Point Blank Project did not take into account the  
22 cumulative effect of the project along with other past and planned future projects in the area.  
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66. The Public Lands Act requires DNR to make a finding that a timber sale is “in the best interests of the state” prior to offering it for sale. Neither DNR, the Commissioner of Public Lands, nor the Board made a published finding that the Point Blank Project is in the best interests of the state. To the extent that DNR considered some benefits of the sale to the state, it did not conduct an even-handed analysis, taking into account the short- and long-term harm to the interests of the state, especially in light of the sale’s lack of compliance with the Sustainable Forest Policy.

67. The sale is not in the best interests of the state and would undermine DNR's commitment to work toward meeting its Older Forest Target in the South Coast HCP planning unit. As designed, the Point Blank Project takes the most aggressive logging approach allowed under applicable regulations, ignoring other ways to better balance forestry and conservation goals.

## VI. CAUSES OF ACTION

### **Claim One—Violations of the Public Lands Act**

68. Appellant incorporates by reference all preceding paragraphs.

69. The decision by DNR, the Board, and the Commissioner to approve the Point Blank Project are appealable under the Public Lands Act, RCW 79.02.030, as “any order or decision of the board, or the commissioner” concerning the sale of valuable materials from state lands.

70. DNR, the Board, and the Commissioner violated the Public Lands Act by failing to make a finding that the Point Blank Project was in the best interests of the state, as required by RCW 79.22.050.



1           71. DNR, the Board, and the Commissioner violated the Public Lands Act by  
2 approving the Point Blank Project for auction even though the sale is not in the best interests of  
3 the state.

4           72. DNR, the Board, and the Commissioner further violated the Public Lands Act  
5 by acting arbitrarily and capriciously in approving the Point Blank Project for auction based on  
6 incomplete and inaccurate information, and while ignoring the impact that the project would  
7 have on DNR's management objectives, including those expressed in the HCP, the Sustainable  
8 Forest Policy, and DNR's HCP implementation procedures, including PR 14-004-046. *See Nw.*  
9 *Alloys, Inc. v. Dept. of Nat. Res.*, 10 Wn. App. 2d 169, 14, 447 P.3d 620, 629 (2019) (holding  
10 that when agencies act in their administrative function, review is of whether they acted  
11 arbitrarily, capriciously, or contrary to law).  
12

13  
14                   **Claim Two—Violations of the State Environmental Policy Act**

15           73. Appellant incorporates by reference all preceding paragraphs.

16           74. DNR, the Board, and the Commissioner violated SEPA by approving the Point  
17 Blank Project based upon an unlawful and clearly erroneous DNS.

18           75. DNR conducted a SEPA threshold evaluation that terminated SEPA review,  
19 which was not based on reasonably accurate information, failed to evaluate the extent to which  
20 the Point Blank Project would impact DNR's ability to meet its Older Forest Target, and failed  
21 to take into account the direct, indirect, and cumulative impacts of the project. DNR unlawfully  
22 isolated its analysis of the Point Blank Project from related sales, taking a piecemeal approach  
23 to minimize the environmental impact of each individual project.  
24

25           76. DNR's SEPA evaluation failed to assess forest conditions using readily  
26 available information; did not utilize known landscape management strategies; and ignored the  
27

1 role of the structurally complex stand within the Point Blank Project in meeting its Older Forest  
2 Target as required by PR 14-004-046, the HCP implementation procedure for Identifying and  
3 Managing Structurally Complex Forests to Meet Older Forest Targets.

4 77. DNR failed to base its threshold determination on information that accurately  
5 reflected its ability to meet its own policy objectives and failed to resolve uncertainties by  
6 conducting further study or performing further environmental review. *See* WAC 197-11-335.

7 78. DNR failed to prepare an environmental impact statement for the Point Blank  
8 Project, despite the fact that the project will have more than a moderate adverse impact on  
9 environmental quality. DNR failed to withdraw its DNS and prepare an environmental impact  
10 statement despite significant information indicating the proposal's probable significant adverse  
11 environmental impacts. WAC 197-11-340(3)(a)(ii).

12 79. DNR, the Board, and the Commissioner failed to comply with their substantive  
13 obligations under SEPA, which include acting as trustees of the environment for future  
14 generations and attaining the widest range of beneficial uses of the environment without  
15 degradation, risk to health or safety, or other undesirable and unintended consequences. RCW  
16 43.21C.020.

## 17 **VII. RELIEF REQUESTED**

18 Appellant respectfully requests the following relief:

- 19 1. An order invalidating the Board's approval of the Point Blank Project for  
20 auction.  
21 2. An order invalidating the DNS for the Point Blank Project as "clearly  
22 erroneous."  
23  
24  
25  
26  
27

1           3.       A declaration that the Point Blank Project could have probable, significant  
2 adverse impacts to the environment, necessitating preparation of an environmental impact  
3 statement.

4           4.       An order enjoining all forest practices pursuant to the Point Blank Project.

5           5.       If necessary and appropriate, an order requiring mitigation for any impacts of  
6 the Point Blank Project.  
7

8           6.       An order granting Appellant its costs and attorneys' fees based on the Equal  
9 Access to Justice Act, RCW Ch. 4.84, or any other applicable provision of law.

10          7.       Any other relief that this Court deems just and proper.

11          Dated this 1<sup>st</sup> day of December, 2021.

12                               Respectfully submitted,

13                               BRICKLIN & NEWMAN, LLP  
14

15                                 
16 By: \_\_\_\_\_

17 Claudia M. Newman, WSBA 24928  
18 Alexander Sidles, WSBA No. 52832  
19 1424 Fourth Avenue, Suite 500  
20 Seattle, WA 98101  
21 Telephone: 206-264-8600  
22 newman@bnd-law.com  
23 sidles@bnd-law.com  
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**ATTACHMENT**



## TIMBER NOTICE OF SALE

**SALE NAME:** *POINT BLANK*

**AGREEMENT NO:** 30-100492

**AUCTION:** December 16, 2021 starting at 10:00 a.m., **COUNTY:** Lewis  
Pacific Cascade Region Office, Castle Rock, WA

**SALE LOCATION:** Sale located approximately 16 miles west of Centralia

**PRODUCTS SOLD  
AND SALE AREA:**

All timber, except for leave trees bounded by yellow "Leave Tree Area" tags, individual leave trees marked with blue paint and all down timber existing 5 years prior to the day of sale, and areas of young reprod against mature timber bound by the following:

Unit 1, white "Timber Sale Boundary" tags, with pink "Timber Harvest Boundary" flagging, reprod and the L-2027 road.

Unit 2, white "Timber Sale Boundary" tags, with Pink "Timber Harvest Boundary" flagging, reprod and L-2020 road.

Unit 3, white "Timber Sale Boundary" tags, with pink "Timber Harvest Boundary" flagging, reprod and L-2000 and L-2020 roads.

Unit 4, white "Timber Sale Boundary" tags with Pink "Timber Harvest Boundary" flagging and reprod.

Unit 5, white "Timber Sale Boundary" tags, with pink "Timber Harvest Boundary" flagging and reprod.

Unit 6, orange "Right-of-Way" tags, with pink "Timber Harvest Boundary" flagging.

All forest products above located on part(s) of Sections 33 and 34 all in Township 15 North, Range 5 West, W.M., containing 82 acres, more or less.

**CERTIFICATION:** This sale is certified under the Sustainable Forestry Initiative® program Standard (cert no: PwC-SFIFM-513)

**ESTIMATED SALE VOLUMES AND QUALITY:**

Species	Avg DBH	Ring Count	Total MBF	MBF by Grade								
				1P	2P	3P	SM	1S	2S	3S	4S	UT
Douglas fir	27	8	4,390				293		3,358	652	57	30
Hemlock	15		903						388	394	115	6
Red cedar	17		107							75	32	
Red alder	18		93						58	9	14	12
Sale Total			5,493									

**MINIMUM BID:** \$2,191,000.00

**BID METHOD:** Sealed Bids

**PERFORMANCE**

**SECURITY:** \$100,000.00

**SALE TYPE:** Lump Sum

**EXPIRATION DATE:** October 31, 2023

**ALLOCATION:** Export Restricted



## TIMBER NOTICE OF SALE

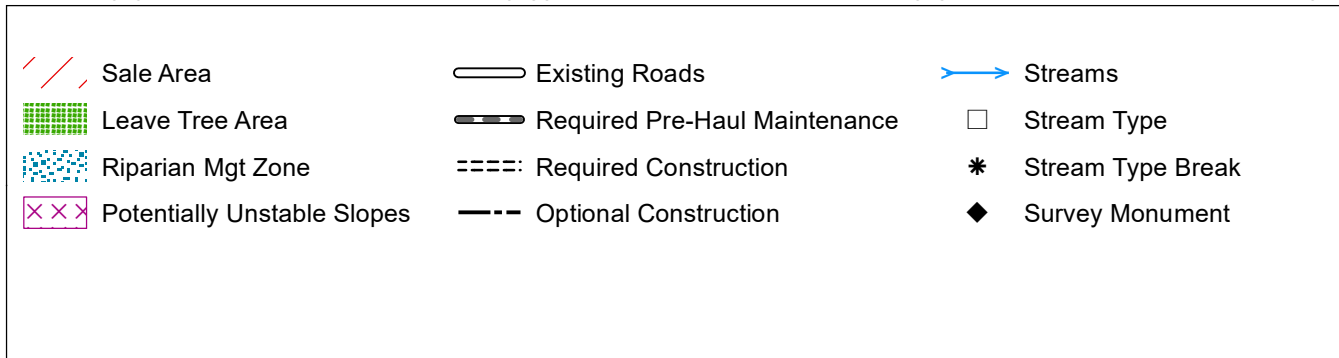
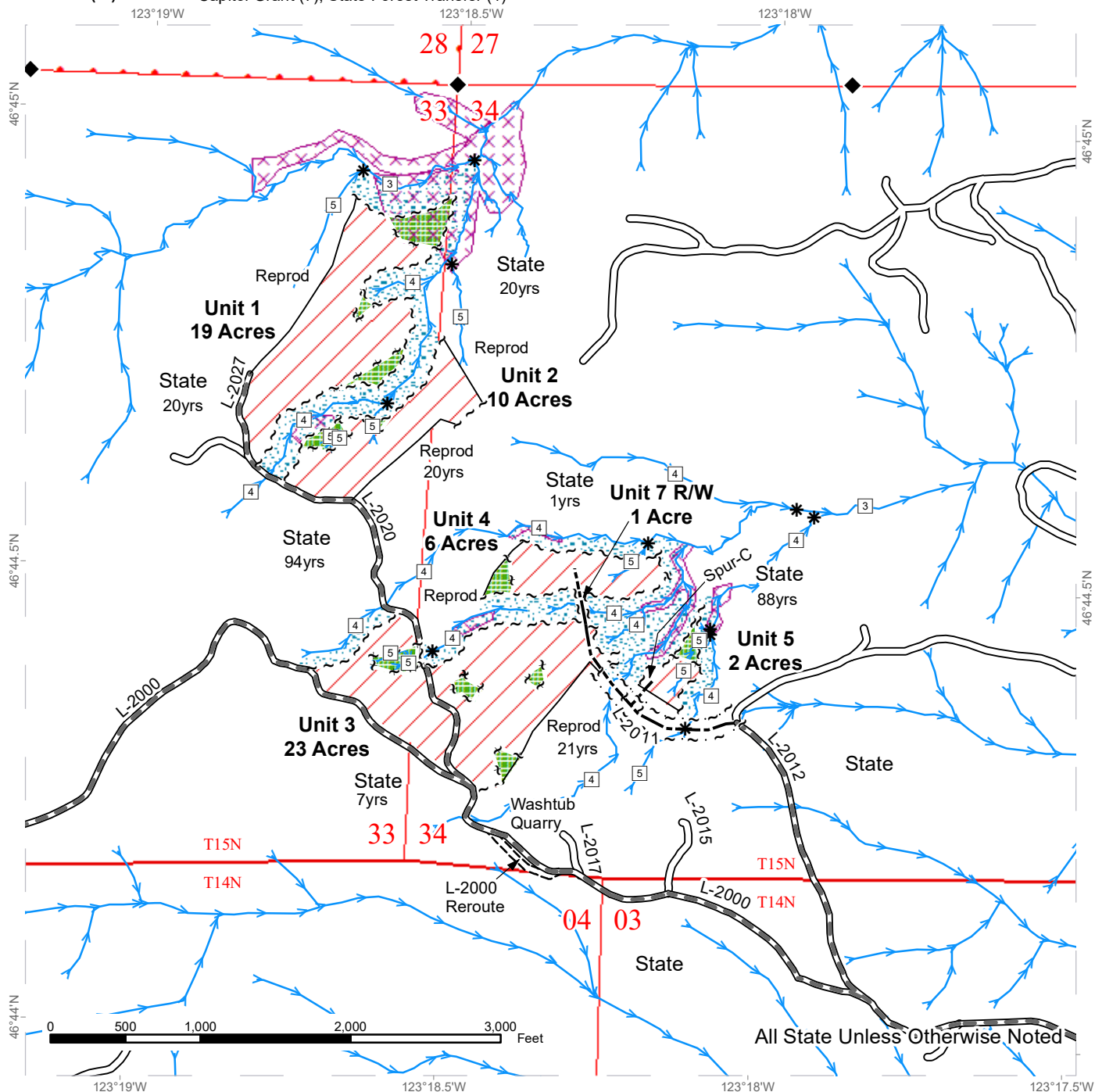
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- BID DEPOSIT:** \$219,100.00 or Bid Bond. Said deposit shall constitute an opening bid at the appraised price.
- HARVEST METHOD:** Ground based equipment, Cable, and Cable-Assist. Harvest activities are estimated to be 70% ground based yarding and 30% uphill cable. Ground based harvesting equipment shall be restricted to sustained slopes of 45% and less during dry soil conditions. Self-leveling equipment is restricted to slopes less than 65%, cable assisted equipment is restricted to slopes less than 75%. See Clause H-140 for further harvesting requirements. Ground Based Yarding will not be permitted from October 1 to April 30 unless authorized in writing by the Contract Administrator.
- ROADS:** 5.00 stations of required construction. 43.60 stations of optional construction. 254.00 stations of required prehaul maintenance. 37.10 stations of abandonment, if built. Rock used in accordance with the quantities on the ROCK LIST may be obtained from the Washtub Quarry and existing Washtub Quarry Stock Pile (Sec 34 T15N R05 W W.M) Rock for construction and pre-haul maintenance used in accordance with the quantities on the ROCK LIST may be obtained from any commercial source at the Purchaser's expense subject to written approval from Contract Administrator. See contract Clause H-130 for more details. Road construction will not be permitted from November 1 to April 30 unless authorized in writing by the Contract Administrator. All road work will not be permitted from November 1 to April 30 unless authorized in writing by the Contract Administrator. The hauling of forest products will not be permitted from October 1 to April 30 unless authorized in writing by the Contract Administrator for the L-2011, L-2081 ext, Spur-A, Spur B, and Spur C roads.
- ACREAGE DETERMINATION**
- CRUISE METHOD:** The sale acres were determined by GPS. The sale area was cruised using a variable plot cruise method.
- FEES:** \$93,381.00 is due on day of sale. \$9.00 per MBF is due upon removal. These are in addition to the bid price.
- SPECIAL REMARKS:** PCP 1-1 gate keys may be obtained from the Pacific Cascade Region office.

# TIMBER SALE MAP

**SALE NAME:** Point Blank  
**AGREEMENT #:** 30-100942  
**TOWNSHIP(S):** T15R5W  
**TRUST(S):** Capitol Grant (7), State Forest Transfer (1)

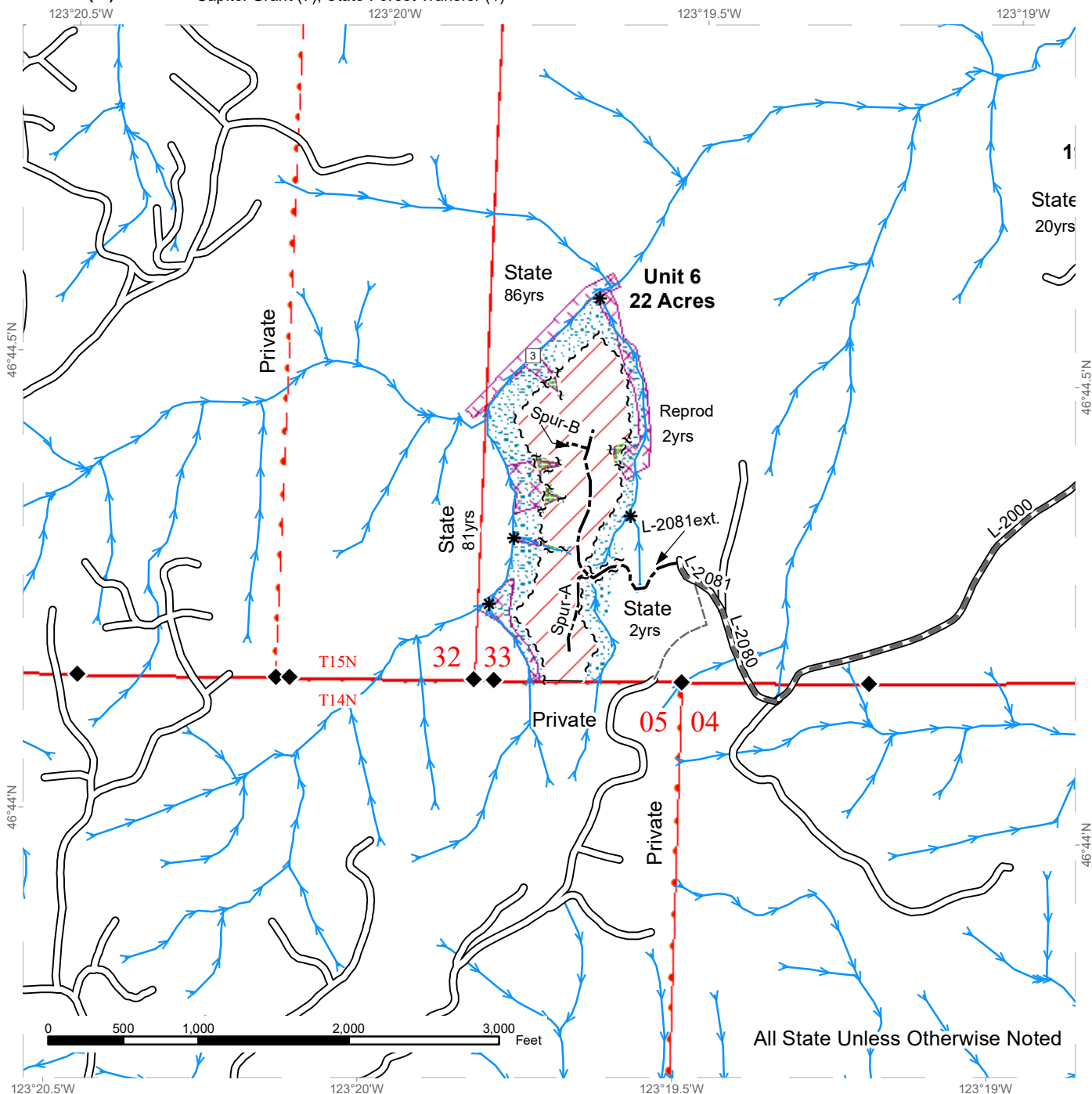
**REGION:** Pacific Cascade Region  
**COUNTY(S):** Lewis  
**ELEVATION RGE:** 779-1748



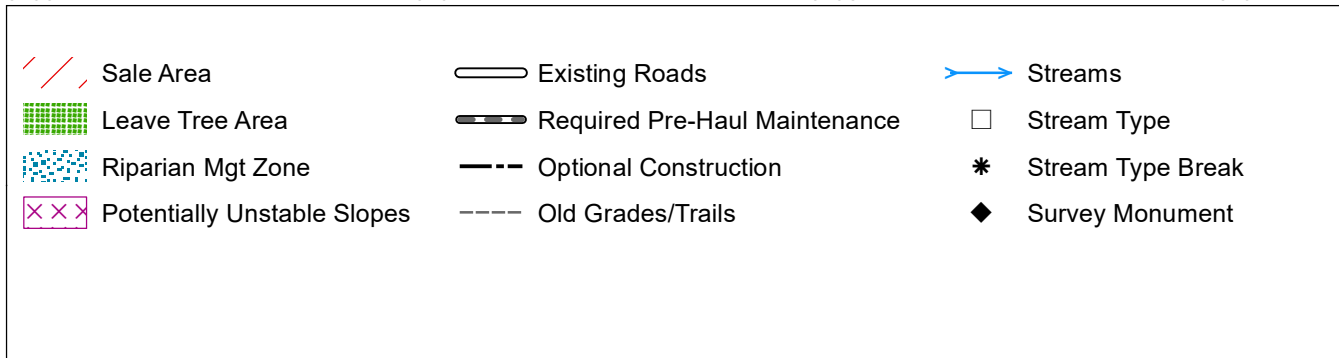
# TIMBER SALE MAP

**SALE NAME:** Point Blank  
**AGREEMENT #:** 30-100942  
**TOWNSHIP(S):** T15R5W  
**TRUST(S):** Capitol Grant (7), State Forest Transfer (1)

**REGION:** Pacific Cascade Region  
**COUNTY(S):** Lewis  
**ELEVATION RGE:** 779-1748



All State Unless Otherwise Noted

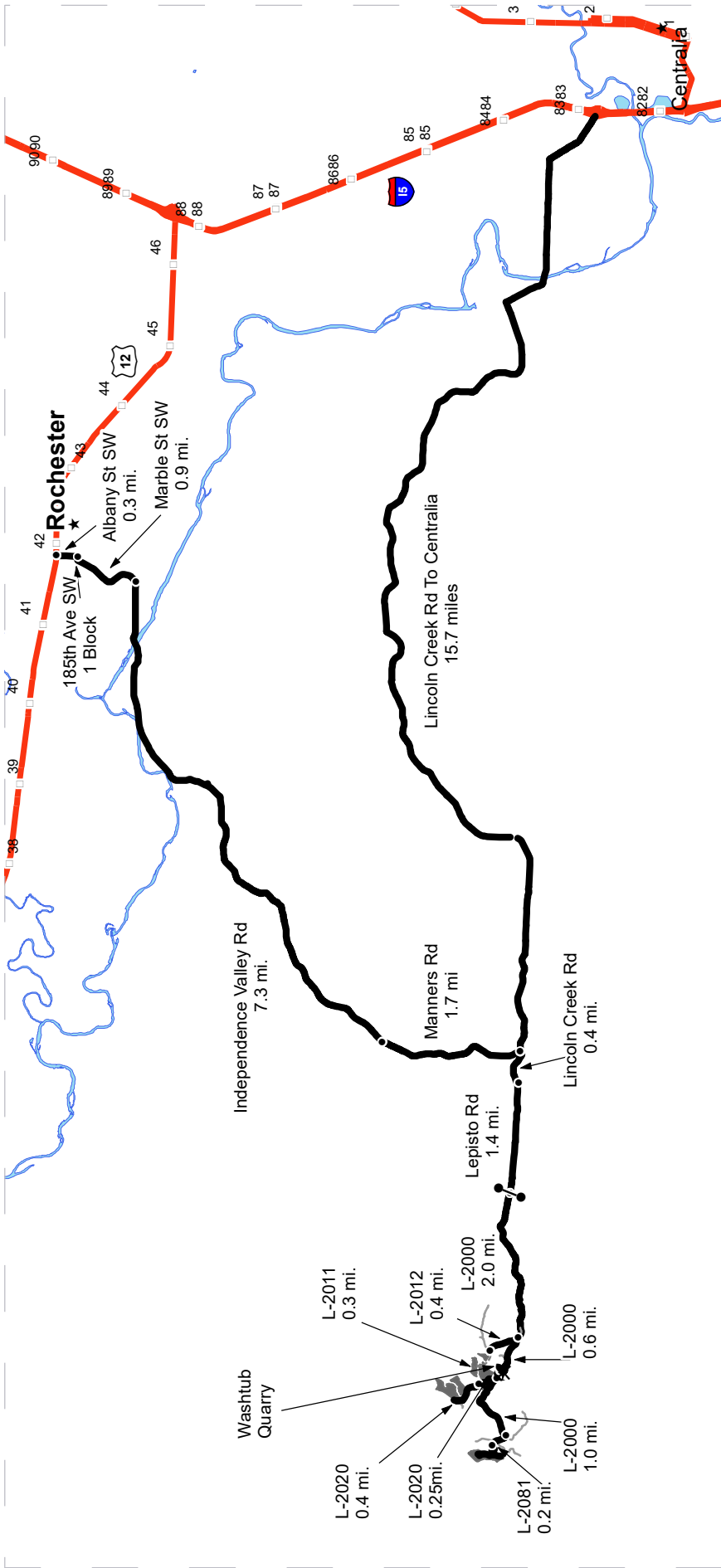




DRIVING MAP

SALE NAME: Point Blank  
AGREEMENT#: 30-100942  
TOWNSHIP(S): T15R5W  
TRUST(S): Capitol Grant (7), State Forest Transfer (1)

REGION: Pacific Cascade Region  
COUNTY(S): Lewis  
ELEVATION RGE: 779-1748



Map may not be to scale

- Timber Sale Unit
- Haul Route
- Other Road
- View Only Route
- Highway
- Distance Indicator
- Gate (PCP 1-1)
- Rock Pit
- Town

**DRIVING DIRECTIONS:**

From Rochester, drive south on Albany St for 0.3 miles to 185th Ave SW. Turn right onto 185th and follow for one block to Marble St. Turn left onto Marble St and follow for 0.9 miles to Independence Valley road. Turn right onto Independence Valley road and follow for 7.3 miles, this turns into Manners road. Follow Manners road for 1.7 miles to Lincoln Creek road. Turn right onto Lincoln Creek road and follow for 0.4 miles to Lepisto road. Turn right onto Lepisto road and follow to the end. From the end of Lepisto road, veer right and go through the gate onto the L-2000. Continue on the L-2000 for 2.0 miles to the L-2012. Turn right on L-2012 and follow for 0.4 miles to the L-2011. Follow the L-2011 Flagged line for 0.4 miles to access units 3, 4 & 5. Continue on the L-2000 or 0.6 miles to the L-2020. Turn right on the L-2020 for 0.25 miles to accesses Units 1, 2 & 3. Continue on the L-2000 for 1.0 mile to the L-2081. Turn right on the L-2081 for 0.2 miles to the Flagged line that accesses Unit 6.