

# State Forests Program Operational Policies

<b>Northern Spotted Owl</b>	Number: 2.1	
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## 2.1.1.0 Purpose

This policy describes the reasonable and prudent measures the State Forests Program will use to avoid direct take of northern spotted owls, and minimize the risk of any potential take (Definition 7.20) incidental to management practices conducted for the purpose of actively achieving a variety of resource values on lands managed by the Oregon Department of Forestry (ODF). The Forest Management Plans describe other management actions implemented by the State Forests Program that are expected to provide additional benefits for northern spotted owl habitat.

## 2.1.2.0 Goals

The State Forests Program's goals for applying the policies and standards that follow are to:

- 2.1 Minimize the disruption of reproductive activities;
- 2.2 Minimize the potential for management activities to negatively impact the occupancy or reproduction of active northern spotted owl sites (Definition 7.1 and 7.11).

## 2.1.3.0 Policy Statements and Standards

### ***Identifying Survey Needs***

- 3.1 For the Eastern Oregon Area: Consistent with the Eastern Oregon Long-Range Plan, conduct monitoring surveys every five years for all state forest lands within the range of the northern spotted owl, as shown in Figure 1. Operational surveys are not required, but additional surveys may be conducted for individual timber sales at the discretion of the Unit Forester and Staff biologist.
- 3.2 For the Coos District, no operational surveys are required on the Elliott State Forest due to the incidental take permit. Operational surveys are required on other state forest lands in the Coos District.
  - 3.2.1 Conduct monitoring surveys on the Elliott State Forest consistent with the Habitat Conservation Plan.
- 3.3 Within the "Interior of the Tillamook Burn" on Tillamook and Forest Grove Districts (see Figure 2), require operational surveys only for patches of medium quality or better habitat (QDBH  $\geq$  18 inches) within 1.5 miles of a planned operation that are at least 70 acres in extent when the planned operation intersects a patch of this size. See Guidance 2.1.G1.1 for the rationale behind this policy.
- 3.4 For all other geographic areas, require surveys of suitable habitat (Definition 7.17) on lands managed by the State Forests Program, or adjacent federal lands, prior to the following activities:
  - 3.4.1 Planned harvest operations
  - 3.4.2 Project work to include road construction outside of the provincial survey radius (Definition 7.13) of timber sale areas that are already being surveyed.

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- 3.4.3 Construction of new rock pits.
- 3.5 Allow, without requiring surveys,
  - 3.5.1 Activities that remove a patch of less than ½ acre of suitable habitat
  - 3.5.2 The salvage of downed trees that have recently fallen, and those that are root-sprung (Definition 7.15) or leaning 10 degrees or more:
    - 3.5.2.1 Within 100 feet of an existing, open road.
    - 3.5.2.2 Within a patch of at least 5 acres that has less than 50 percent canopy closure.
    - 3.5.2.3 Within stands that have been partial cut in 2002 or later.
- 3.6 For other activities in suitable habitat that may require surveys, consult the Area Biologist.
- 3.7 For the purpose of conducting surveys, identify suitable habitat (Definition 7.17) that is within an operation or activity following Procedure 2.1.P1.1.
- 3.8 Grant survey waivers when determined appropriate following Procedure 2.1.P1.2.

<b><i>Conducting Surveys</i></b>
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- 3.9 Coordinate survey activities across districts, and develop and administer appropriate personal services contracts as detailed in Procedure 2.1.P2.1.
- 3.10 Conduct operational surveys prior to management activities according to currently accepted, scientifically-based survey protocol described in guidance, appendix A.
  - 3.10.1 Survey all suitable habitat (Definition 7.17) within the specified provincial radius (Definition 7.13) from the perimeter of the proposed activity areas.
  - 3.10.2 Evaluate survey results consistent with 3.15 and Procedure 2.1.P3.1.
- 3.11 Conduct monitoring surveys within the Interior of the Tillamook Burn (Figure 2) as follows:
  - 3.11.1 Randomly select three survey units for survey every two years. Provide survey coverage for the entire survey unit, regardless of perceived habitat quality, except for recent regeneration harvests.
  - 3.11.2 Survey each unit at least three times per year for two years, consistent with the survey protocol (Appendix A). Record all spotted owl and barred owl observations. Document results in an annual survey report.
  - 3.11.3 Evaluate all monitoring data annually.
  - 3.11.4 Continue monitoring surveys until all 15 units identified in the Interior of the Tillamook Burn have been surveyed or until surveys result in detection of a resident spotted owl, or detection of multiple non-territorial single spotted owls.
- 3.12 Notify sale purchasers when a northern spotted owl is observed in the vicinity of a sold timber sale following Procedure 2.1.P2.2. When determined appropriate, designate an activity center according to Procedure 2.1.P3.1 and develop a biological assessment.
- 3.13 Accept survey results as valid under the following situations:
  - 3.13.1 For two year surveys, for two full years and until March 15 of the third year;
  - 3.13.2 For one-year surveys (6 visits), until March 15 of the following year.
- 3.14 For operations continuing past the above deadlines, either:

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- 3.14.1 Establish a deadline for felling activities that occurs prior to survey expiration;
- 3.14.2 Conduct an additional year(s) of survey, following Procedure 2.1.P2.3 and allow timber felling to occur only outside of the survey season; and
- 3.14.3 Allow project work to continue during the survey season, including felling of Rights of Way.

### ***Evaluating Survey Results and Designating Activity Centers***

- 3.15 Review all survey results by October 31 of the survey season. Determine site status (Definition 7.16), designate activity centers (Definition 7.2) for new or moved sites, or recommend additional surveys where determined appropriate, according to Procedure 2.1.P3.1. Document and retain decisions related to the annual review of survey results following Procedure 2.1.P3.1.
- 3.16 Evaluate reports of spotted owl activity made by a credible source outside of scheduled State Forest Program surveys, and that have the potential to affect a harvest-related activity, following Procedure 2.1.P3.2.

### ***Protecting Spotted Owl Sites***

- 3.17 Protect spotted owl sites as follows:
  - 3.17.1 As described below in 3.18 through 3.22.
  - 3.17.2 Considering other relevant risk factors as documented in the biological assessment described in 3.23.
  - 3.17.3 Prohibit logging (Definition 7.7) in stands older than 40 years within the home ranges (Definition 7.6) of the Strum Creek owls as identified by the 95% fixed kernel (Definition 7.5) boundaries and as shown in Exhibit 1 of Appendix B.
  - 3.17.4 For stands on state lands less than 40 years old within the Strum Creek Home Range, allow logging **only** when the Department’s biological assessment concludes conditions for the owl will improve, **and** the U.S. Fish and Wildlife Service does not object to the Department’s conclusions within 60 calendar days of receiving the biological assessment.
- 3.18 All active, resident northern spotted owl sites in the Tillamook, Astoria, and Forest Grove Districts will be protected according to the Agreement for the Conservation of Northern Spotted Owls. This Agreement is included in the guidance as Appendix B and includes the following standards<sup>1</sup>:
  - 3.18.1 Establish core use areas consisting of a 600-meter radius around the center of each owl site for active owl pair sites without telemetry information and any of the four resident single sites listed in the Agreement that are currently active sites.
    - 3.18.1.1 A 250-acre core use area may be designated through the written mutual agreement of the U.S. Fish and Wildlife Service’s Oregon State Supervisor and the Department, following Procedure 2.1.P4.1.
  - 3.18.2 Prohibit logging in core use areas (Definition 7.7).

<sup>1</sup> This policy paraphrases and attempts to clarify provisions of the Agreement. However, where there are differences in language between this policy and the Agreement, the Agreement language takes precedence.

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- 3.18.3 Maintain all core use areas unless the site is determined to be historic following the survey protocol.
- 3.18.4 Prohibit the collection or cutting of firewood on State Forest lands within ¼ mile of any known active owl site (Definition 7.1) between March 1 and September 30 of each year.
- 3.18.5 Prohibit logging on state forest lands when such logging would result in less than 500 acres of suitable owl habitat (Definition 7.17.1) within a 0.7 mile radius of an owl site.
- 3.18.6 Prohibit logging on state forest lands when such logging would result in less than 40 percent coverage of suitable owl habitat within the home ranges of owls in the North Coast.
- 3.18.7 Prohibit logging of medium or high quality habitat (Definitions 7.17.1.2 and 7.19.1.1) on state forest lands when these habitats constitute less than 500 acres within the 0.7 mile radius.
- 3.18.8 Prohibit logging of medium or high quality habitat on state forest lands when these habitats constitute less than 40 percent of the acreage within the home range.
- 3.19 Any modifications to the provisions of the Agreement for the Conservation of Northern Spotted Owls shall be in writing and signed by the parties, according to Procedure 2.1.P4.2.
- 3.20 On all other state forest lands within the range of the northern spotted owl, **except** for the Elliott State Forest, protect northern spotted owl sites using the following standards:
  - 3.20.1 Establish a core area (Definition 7.3) of at least 70 acres of the best available suitable owl habitat encompassing the nest site and/or activity center of a pair of spotted owls according to Procedure 2.1.P4.1.
  - 3.20.2 Avoid any harvest activity within this core area.
  - 3.20.3 Avoid any harvest activity which results in less than 500 acres of suitable habitat within a 0.7-mile radius (1000 acres) of a nest site and/or activity center.
  - 3.20.4 Avoid any harvest activity which results in coverage by suitable owl habitat less than specified below for a circle with a radius centered on a nest site and/or center of activity (“owl circle”) and as prescribed by physiographic province (Provincial radius – Definition 7.13) and as specified below:
    - 3.20.4.1 Oregon Cascades province – 1.2 mile circle of 1182 acres
    - 3.20.4.2 Oregon Coast Range province – 1.5 mile circle of 1906 acres
    - 3.20.4.3 Oregon Klamath province – 1.3 mile circle of 1336 acres
  - 3.20.5 Allow exceptions to the above standards only after considering specific information on home range size, habitat use, nest site, or the center of activity of well-studied owls in similar habitat in the same portion of the range (see Guidance 2.1.G4.2).
- 3.21 On all state forest lands **except** on the Elliott State Forest, restrict activities conducted or permitted through written permits by the State Forests Program that modify suitable habitat within ¼ mile of an active nest site (Definition 7.1) during the period from March 1 through September 30. Continue a restriction on activities within ¼ mile of all pair sites until it is determined that the pair is not nesting, or has failed, or through September 30, whichever is sooner. Details on determining nesting status are given in the survey protocol in guidance, appendix A.

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3.22 On all state forest lands, **including** on the Elliott State Forest, restrict the following activities conducted or permitted through written permits by the State Forests Program that create disturbance that may disrupt normal spotted owl behavioral patterns during the critical nesting period (March 1 through July 7). Activities will be restricted only for pair sites, and within the distances from a nest tree or activity center given below until it is determined that the pair is not nesting, or has failed, or until July 7, whichever is sooner. Details on determining nesting status are given in the survey protocol in guidance, appendix A.

3.22.1 An impact pile driver, a jackhammer, or a rock drill within 60 yards.

3.22.2 A helicopter or a single-engine airplane within 120 yards.

3.22.3 Chainsaws within 65 yards (includes hazard trees, precommercial and commercial thinning, firewood cutting).

3.22.4 Heavy equipment within 35 yards.

3.22.5 For the following activities, consult the Area Biologist for site-specific evaluation (see Procedure 2.1P4.3):

3.22.5.1 Burning within 0.5 miles.

3.22.5.2 The use of explosives within 1.0 mile.

***Biological Assessment Development, Review and Information Sharing***

3.23 Prepare a biological assessment prior to management activities occurring in a home range or circle (Definition 7.10), considering guidance 2.1.G5. The assessment will:

3.23.1 Address compliance with policy statements 2.1.3.17 through 2.1.3.20, as appropriate;

3.23.2 Consider other factors (including proximity of the operation to a site, proposed prescription, size of operation, and other relevant factors); and

3.23.3 Assess the risk that the proposed operation poses to specific owl sites.

***Additional Operational Policies***

3.24 Communicate with the USFWS when substantive changes to these operational policies occur, or when determined appropriate by the Area and/or Staff Biologist.

3.25 Hold in confidence site-specific information (draft SFP Policy #\*\*).

3.26 Review this policy for currency every three years at a minimum.

3.26.1 Standards 3.17 through 3.19 applicable to the Agreement for the Conservation of Northern Spotted Owls will be reviewed no later than June 2011.

**2.1.4.0 Key Parties**

District Foresters, Staff and Area Biologists, Staff Biological Specialist, Unit Foresters, T & E Coordinators, Contracts Team Leader, Asset Unit Manager, Area Directors, and Deputy Division Chief.

**2.1.5.0 Authorities**

5.1 ORS 530.050 – Management of lands acquired; power of forester.

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- 5.2 ORS 530.490 – Management, control and protection of Common School Forest Lands and Elliott State Forest; easements.
- 5.3 ORS 530.500 – Authority of State Forester in management, protection, utilization and conservation of lands and waters.
- 5.4 ORS 496.004(6)(a)(b) and 496.171 through 496.192 – Threatened or Endangered Species.
- 5.5 OAR 629-035-0000 through 629-035-0110 – Management of State Forest Lands, including the Northwest, Southwest and Elliott State Forest Management Plans.
- 5.6 Common School Forest Land Agreement – A contract between the Oregon State Land Board and Oregon Departments of Forestry and State Lands.
- 5.7 Agreement for the Conservation of Northern Spotted Owls – Agreement between ODF and U.S. Fish and Wildlife Service for protection of northern spotted owls, enforced through 9/5/2011.

#### 2.1.6.0 References

- 6.1 *Sensitive Information Policy* (SFP #\*\*); in draft).
- 6.2 ODF Directive #0-7-0-030 Geographic Information System (GIS).
- 6.3 Annual Operations Planning Policy (SFP No. 3.4.0).
- 6.4 Federal Endangered Species Act; link: <http://endangered.fws.gov/esa.html>
- 6.5 State of Oregon Endangered Species Act; link: <http://www.dfw.state.or.us/OARs/100.pdf>

#### 2.1.7.0 Definitions

- 7.1 **Active site** – any resident spotted owl site with a status other than historic (see 7.16).
- 7.2 **Activity center** – the nest tree or the location best describing the focal point of the activity for a northern spotted owl or pair of owls when the nest location is not known.
- 7.3 **Core area** – an area of contiguous suitable habitat surrounding a nest site or activity center, a minimum of 70 acres in size.
- 7.4 **Core use area** – areas of concentrated use within the home range identified by calculating an average observation density of all locations for an individual owl and determining the contour where the observation density is greater than average. In the North Coast, when telemetry information is not available to calculate this, will consist of a 600 meter radius around an activity center, or be a designated 250 acres.
- 7.5 **Fixed kernel** – Kernels for which a single smoothing width is used on all the observations in the sample
- 7.6 **Home range** – The area within which an animal conducts its activities during a defined period of time. Generally determined through radio-telemetry monitoring. When telemetry information is not available, this is approximated through a circle with a radius determined by physiographic province (see 7.13).
- 7.7 **Logging** – Where it appears in the Agreement for the Conservation of Northern Spotted Owls, logging is defined as tree harvest involving the felling and/or removal of timber or salvage of downed woody debris. Does not include felling and/or tree removal for purposes

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of road maintenance or public safety concerns, or precommercial thinning (trees less than 20 years old) outside of core use areas.

- 7.8 **Monitoring surveys** – surveys conducted for the purposes of tracking the occupancy and reproductive status of individual spotted owl sites or for determining occupancy of a particular area, such as the Tillamook Burn.
- 7.9 **Operational surveys** – surveys required prior to proposed harvest operations or other forest management activities that are implemented using currently accepted, scientifically-based survey protocol described in Appendix A.
- 7.10 **Owl circle** – Area approximating a home range defined by the provincial radius circle around a spotted owl activity center.
- 7.11 **Owl site** – A territory occupied by northern spotted owls.
- 7.12 **Patch** – A grouping of contiguous stands having the same characteristics, e.g. QDBH  $\geq$ 18 inches
- 7.13 **Provincial radius** – Radius of a circle that represents an approximate home range for an owl in a given geographic location, according to USFWS 1990. These radii are used to determine the area around the proposed activity area for surveying, as well as the area around a spotted owl activity center within which to conduct an analysis of available suitable habitat for a biological assessment.
- 7.13.1 Klamath Province (Grants Pass Unit) – 1.3 miles
- 7.13.2 Oregon Cascades (North Cascade District and Klamath-Lake District) – 1.2 miles
- 7.13.3 Oregon Coast Ranges (all other Districts) – 1.5 miles
- 7.14 **Response** – a visual or audio detection of a northern spotted owl.
- 7.15 **Root-sprung** – Tree with a damaged root system caused by swaying by pivoting around a point below the ground. The root damage is cumulative and is indicated by various degrees of tree lean.
- 7.16 **Site Status** – the occupancy status of a surveyed area, as defined by the survey protocol. See Appendix X for additional information.
- 7.16.1 **Pair status** is established by any of the following:
- 7.16.1.1 A male and female are heard and/or observed (either initially or through their movement) in proximity (<1/4 mile apart) to each other on the same visit; or
- 7.16.1.2 A male takes a mouse to a female; or
- 7.16.1.3 A female is detected (seen) on a nest; or
- 7.16.1.4 One or both adults are observed with young.
- 7.16.2 **Resident single status** is established by:
- 7.16.2.1 The presence or response of a single owl within the same general area on 3 or more occasions within a breeding season; or
- 7.16.2.2 Multiple responses over several years (e.g. two responses in year 1 and one response in year 2, from the same general area).
- 7.16.2.3 The presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member meets the other

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resident single requirements (Note: this is considered “Two birds, pair status unknown” in the survey protocol. This situation is lumped with the Resident single category since management options are the same as for resident singles.)

7.16.3 **Status unknown** is established by:

7.16.3.1 The response of a male and/or female which does not meet any of the above category definitions after one year of survey.

7.16.4 **Non-territorial single status** (also termed “floater”) is established by:

7.16.4.1 The response of a male and/or female that do not meet any of the above category definitions after a full protocol survey (1 year survey or 2 year survey). Indicates owls have not established a territory and may be dispersing through an area.

7.16.5 **Historic** status is established by:

7.16.5.1 When no responses have been obtained from a pair or resident single site after 3 consecutive years of survey.

7.17 **Suitable habitat** – as defined below:

7.17.1 As defined in the Agreement for the Conservation of Northern Spotted Owls (Appendix B) for Tillamook, Forest Grove, and Astoria districts – any stands with an average QDBH (calculated for all trees  $\geq 5.5$  inches dbh) greater than 11 inches.

7.17.1.1 **High quality habitat:** the average QDBH of trees in a stand is  $\geq 26$  inches; crown closure in a stand is  $\geq 70\%$ ; at least 30 percent of the basal area in a stand is in conifers; and the average age of all trees in the stand is  $\geq 50$  years old.

7.17.1.2 **Medium quality habitat:** the average QDBH of all trees in a stand is between 18 and 25.9 inches; crown closure in a stand is  $\geq 70\%$ ; and at least 30 percent of the basal area in a stand is in conifers.

7.17.1.3 **Low quality habitat:** the average QDBH of all trees in a stand is between 11 and 17.9 inches.

7.17.1.4 **Unsuitable habitat:** the average QDBH of all trees in a stand is 11 inches or less. Also includes stands of any diameter subject to logging, as defined in the Agreement, since 1998.

7.17.2 For all other Districts – any stands where you may expect to elicit a response from a resident owl or pair of owls. This will be determined and documented by the Area or Staff Biologist.

7.18 **Take** – to “harass, harm, pursue, hunt, shoot, wound, kill, trap capture, or collect, or to attempt to engage in any such conduct” related to federal T&E species. The USFWS considers forest-related management activities as having the potential to “harm or harass” federal T&E species.

## 2.1.8.0 Responsibilities

8.1 Area Biologist – Determine habitat suitability, determine and document survey need, document survey waivers; review and evaluate proposals from survey contractors, coordinate to evaluate sufficiency of reported survey stations locations, review final survey reports; oversee evaluation of survey results and designation of activity centers; determine if

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observations outside of State Forests program surveys are from a credible source, recommend a course of action in these situations; prepare biological assessments; determine layout of core areas and document.

- 8.2 Area Director – Review documentation and recommendations in cases where spotted owl observations affect a sold sale, collaborate with District Forester and Deputy Division Chief to decide on a course of action.
- 8.3 Asset Unit Manager – Confirm temporary halt to operations to Purchaser in writing when spotted owls affect a sold sale, modify contract as needed, inform Purchaser when they may resume operations.
- 8.4 Contracts Team Leader – Modify contract as needed when spotted owls affect a sold sale, communicate with Purchaser about changes.
- 8.5 District Forester – Direct purchaser to temporarily suspend operations when a new or moved owl site affects a sold sale, discuss situation with Unit Forester and Area Biologist, review documentation and recommendations, collaborate with Area Director and Deputy Division Chief to decide on a course of action; Decide whether or not to conduct additional operational surveys after a sale is sold; Determine and document decision on how to proceed when a spotted owl has been observed outside of state forest program surveys; Review and approve core area designations.
- 8.6 District T & E Coordinator – Oversee identification of suitable habitat for harvest operations and other activities; Request survey waiver when appropriate; Prepare a list of operations areas and activity centers to be surveyed, determine number required survey stations and survey visits, evaluate survey proposals and participate in selection of survey contractors, transfer information to survey contractors, coordinate to evaluate sufficiency of reported survey station locations, review schedule of planned and completed survey visits, advise survey contractors on specific survey needs, consult with Area Biologist on any special survey requests, review final survey reports; Report new spotted owl detections to Unit Forester; Inform staff biological specialist if an additional year of surveys is planned; Cooperate in determining site status and location of activity centers; determine if observations outside state forests program surveys are from a credible source, determine if detections have the potential to affect a harvest-related activity; Provide relevant data for determining core area layout; Participate in core area layout.
- 8.7 Management Unit Forester – Request survey waivers when appropriate, sign survey waivers; Oversee procedures when spotted owl observation made in the vicinity of a sold sale, notify purchaser in writing when a T&E species located in the vicinity of a sale, verbally notify purchaser when a northern spotted owl site has the potential to affect the sale, discuss situation and options for proceeding with Area Biologist and District Forester, modify the contract as needed; Assess the risk to sales of conducting operational surveys after a sale is sold, discuss rationale with District Forester and decide on approach; include appropriate felling restrictions and deadlines in contract, inform purchaser that surveys will be conducted during the contract period; Collaborate in determining site status and location of activity centers; Responsible for establishing core areas, initiate request for core area designation, determine core area layout collaboratively with Area Biologist and District T&E coordinator; Consult with Area and Staff Biologists about appropriateness of a modification to the Strum Creek Agreement, draft modifications to the Agreement.
- 8.8 Staff Biologist – Evaluate survey proposals and collaborate in selection of survey contractor; Inform Unit Forester when residency is established for a new or moved site that affects a

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sold sale, coordinate communications and share documentation with USFWS as needed; Collaborate in determining site status and location of activity centers, determine status and location and document rationale when agreement is not achieved; Provide input in core area designation process; Contact USFWS when developing modifications to Strum Creek Agreement, acquire signatures on modifications, distribute as needed.

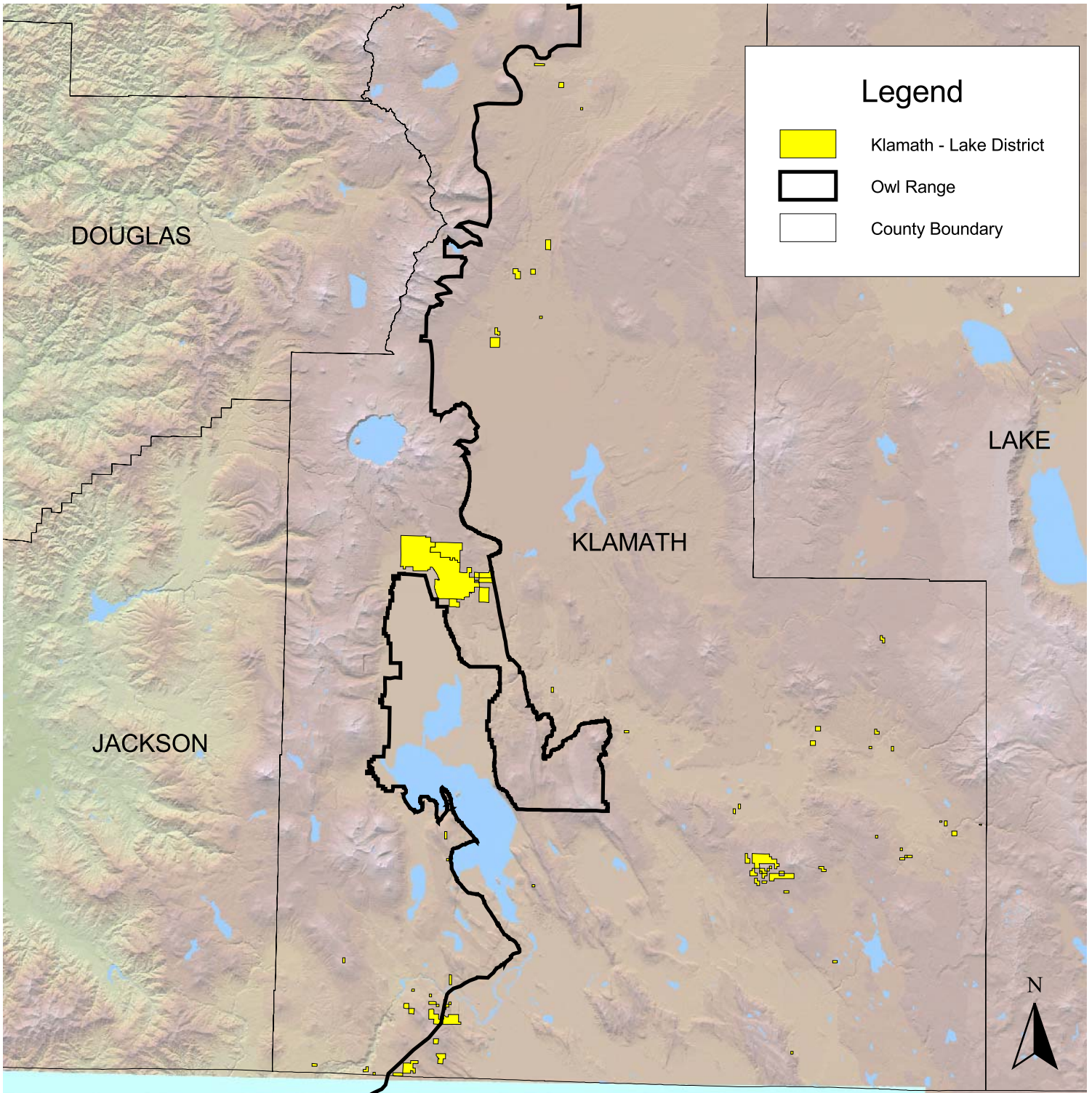
- 8.9 Staff Biological Specialist – Responsible for coordinating survey activities, develop RFPs and contracts for surveying, oversee survey contracts, coordinate with District T&E Coordinator and Area Biologist to evaluate sufficiency of survey station locations, approve additional survey workload requests, coordinate with DAS to request contract modifications and extensions as necessary, review survey reports and information, incorporate electronic data into GIS and Access databases; Track information relating to new responses and known activity centers that may have moved, advise Staff biologist when a new response meets protocol requirements for a new or moved site; Include in Biological Survey Report information on whether surveys will be conducted during the contract period; Schedule meetings to evaluate survey results, collaborate in determining site status and location of activity centers, send USFWS updated activity center information, summarize survey results by District; Provide input in determining core area layout.
- 8.10 State Forests Deputy Division Chief – Review documentation and recommendations in cases where spotted owl observations affect a sold sale, collaborate with Area Director and District Forester to decide on a course of action.

### 2.1.9.0 Revision History

	1.0	New Document

### 2.1.10.0 Procedures

Procedures have been developed to support this policy: 2.1.P1.0 through 2.1.P4.3.



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