

**File Code:** 1410; 2430; 2450**Date:** May 31, 2017**Route To:****Subject:** Results of the Big Thorne IRTC Supplemental Review**To:** Chief

In June 2016, the Washington Office conducted an Activity Review of the Region 10 Forest Management Program. On October 6, 2016, I received the Final Report from that review. On November 21, 2016, you approved my request to conduct a more specific sale preparation and administration review of the Big Thorne IRTC.

A team was organized and chartered by the WO Forest Management Director to review all cruise and volume determination activities for the sale to assess whether the volume calculation followed established policy and procedure and the derived estimate could be consistently replicated. Additionally, the team was tasked with reviewing the appraisal process to ensure compliance with policy and procedure and to produce an updated appraisal based upon the results of the volume determination review. Lastly, the team was instructed to review all sale administration activities.

A final report from the team has been received and issues related to the sale preparation and appraisal activities were identified. The team utilized all of the original Big Thorne cruise data, ran it through processors using handbook prescribed factors, and generated a cruise that was 12,100 MBF less than the R10 cruise run used to appraise and offer the sale in 2014. The team then used the revised cruise volume and replicated the 2014 appraisal after correcting for two appraisal factors where policy was not followed in 2014. The net result of all corrections by the review team is a sale that was 12,100 MBF less of green saw timber volume, 229 MBF less Utility volume and an indicated advertised rate that was significantly less than originally advertised and subsequently awarded.

While Viking Lumber (Purchaser) does not know the specific numbers and results of the review, they have communicated a similar lower volume harvested and the same is expected in the future. This is based on the harvest to date and projections across the remaining acres. Purchaser has also communicated a similar reduction in indicated advertised rate based on his own review of the original appraisal for policy departures.

There is no contractual mechanism to correct these errors and inequities, which we think will cost the Purchaser money under the contract. Wishing to avoid a long and costly process in the Court of Federal Claims or the Board of Contract Appeals, the Purchaser has indicated a preference not to file a claim. Purchaser has limited volume under contract, yet is firm in the belief that some adjustments need to be made. The independent review shows unexplained departures from policy, which puts the Forest Service (FS) at risk of significant damages should



the Purchaser pursue a claim. The FS, in its discretion, will be well served to negotiate with the Purchaser to settle this matter administratively.

The following options are potential approaches to resolve this situation:

- 1) Mutual Contract Cancellation, re-package and re-offer:
 - a. Purchaser is not likely to agree as it has no other FS Timber under contract. This is problematic because of a lack of FS capacity to issue a re-package and re-offer in a timely manner.
- 2) Unilateral Contract Cancellation by FS, re-package and re-offer:
 - a. Probable Claim for significant damages by Purchaser, which the FS wishes to avoid.
 - b. Same volume and capacity issues as listed in 1.
- 3) No Action: No change in volumes or values from what was originally contracted.
 - a. Purchaser will log at an approximate loss of \$85/mbf to supply customer orders.
 - b. Purchaser will pursue a claim.
- 4) **PREFERRED:**
 - a. Modify the Big Thorne IRTC contract to reflect the Validation Cruise volumes and Validation Appraisal advertised rates derived by the review team, plus the established Bid Premium. Modify the contract in the accounting system (ATSA) and make the revised rates retroactive to the beginning of harvest activities.
 - i. Corrects contract volume and value to what should have initially been offered in accordance with policy.
 - ii. Mandatory stewardship items are still covered.
 - iii. Equitable to both parties.

I am requesting you assign an individual to enter into negotiations with Purchaser to determine a fair and equitable settlement for all parties. The R10 Director of Forest Management will provide the necessary staff work and documentation to the selected individual. I believe Option 4 above provides the most equitable solution for both parties. Final approval for any negotiated solution will reside within the Deputy Chief for NFS area. In this situation, it may be appropriate that any contract modifications necessary to implement the solution be executed by the appropriate Associate Deputy Chief or a letter of direction with specific modification actions be issued to the Contracting Officer. The anticipated solutions will certainly fall outside the scope of authority for the Contracting Officer for the Big Thorne IRTC unless directed.

Correcting the situation on Big Thorne IRTC is a high priority. Equally important is correcting the underlying causes for the errors locally. Corrective actions are planned and will be implemented.

Chief

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Your prompt consideration of our request is appreciated.

Please contact Director, R10, RO, Forest Management, Dave Harris at (907) 586-7875 or dpharris@fs.fed.us for any further information.



REBECCA S. NOURSE
Acting Regional Forester

Enclosures: (2)

cc: Allen Rowley, John Crockett, Dave P. Harris