



MARTEN LAW

October 17, 2022

Via Certified Mail, Return Receipt Requested

Office of Administrative Law Judges
United States Department of Agriculture
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Washington, DC 20250-9202

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United States Forest Service
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Barry Bushue
Director, Oregon/Washington State Office
Bureau of Land Management
P.O. Box 2965
Portland, OR 97208

Re: Application for Sourcing Area for Unprocessed Timber

Dear Sirs/Madams:

Enclosed for filing with OALJ is a motion to amend the application by Bell Timber, Inc. to establish a sourcing area pursuant to the Forest Resources Conservation and Shortage Relief Act of 1990, as amended, 16 U.S.C. §§ 620-620j, 36 C.F.R. § 223.190, and 7 C.F.R. part 1, subpart M. The amended application is attached to the motion.

Should you have any questions, please feel free to contact me at the address below.

Sincerely,

Lawson E. Fite
Attorney for Bell Timber, Inc.
Enclosures

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BEFORE THE
UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF ADMINISTRATIVE LAW JUDGES

Bell Timber, Inc., Applicant

Docket No.: 22-J-0052

**MOTION TO AMEND
APPLICATION FOR SOURCING
AREA**

12 Applicant Bell Timber, Inc. (BTI) hereby moves to amend its Application
13 for Sourcing Area in this matter. The amended Application is attached hereto. In
14 support of this Motion, BTI states as follows:

15 1. This Application was submitted on June 28, 2022 and docketed on
16 July 19, 2022. *Application* at 11; Docketing Letter, July 20, 2022.

17 2. On September 1, 2022, Bell Lumber & Pole Co., the parent company
18 of BTI, acquired the operations of The Oeser Company in Bellingham Washington.
19 Press Release, Bell Lumber & Pole Co., "Bell Lumber & Pole Completes
20 Acquisition of The Oeser Company Assets, a Utility Pole Manufacturer &

1 Supplier,” Sept. 1, 2022; [https://blpole.com/bell-lumber-poles-acquires-the-oeser-](https://blpole.com/bell-lumber-poles-acquires-the-oeser-company-assets)
2 [company-assets](https://blpole.com/bell-lumber-poles-acquires-the-oeser-company-assets).

3 3. The acquisition of the assets of The Oeser Company includes a peeler
4 yard in Bellingham, Washington, which is located within the boundaries of the
5 Sourcing Area identified in the *Application*. *Application* at 3–5, Ex. A. At present,
6 BTI does not believe that the Bellingham facility accepts timber procured from
7 federal lands. Moreover, the portion of the sourcing area nearest the Bellingham
8 facility, and the federal lands therein, are largely within the exception to the
9 export/substitution prohibition at 16 U.S.C. § 620b(a)(3).

10 4. It is possible, however, that in the future BTI may wish to process
11 wood at the Bellingham facility that is acquired from federal lands that would be
12 subject to 16 U.S.C. § 620b(a)(3) but inside the sourcing area. Accordingly, BTI
13 requests leave to amend the Sourcing Application to reflect the inclusion of the
14 Bellingham facility within the Sourcing Area. The amended Application is
15 attached hereto.

16 5. This Motion is timely as it is within approximately one month of the
17 acquisition of the Oeser assets and before Federal agencies have undertaken
18 notification pursuant to 7 C.F.R. § 1.415. To the extent applicable, this Motion is
19 also timely under 7 C.F.R. § 1.419, and is within the scope of section 1.419 as a
20

1 clarifying and technical amendment. The Motion is also timely under 7 C.F.R. §
2 1.137(a) to the extent applicable.

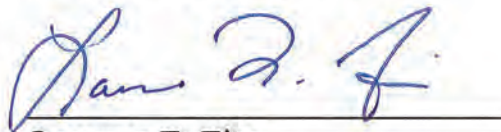
3 6. Counsel for BTI have conferred with counsel for the Departments of
4 Agriculture and the Interior regarding amendment of the Application, and
5 government counsel indicated no objection to amendment.

6 Accordingly, BTI requests leave be granted to file the attached Amended
7 Application.

8 DATED: October 17, 2022.

9
10 Respectfully submitted,

11 MARTEN LAW, LLP

12 

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4 BEFORE THE
5 UNITED STATES DEPARTMENT OF AGRICULTURE
6 OFFICE OF ADMINISTRATIVE LAW JUDGES

7 **Bell Timber, Inc., Applicant**

Docket No.: 22-J-0052

8 **AMENDED APPLICATION FOR**
9 **SOURCING AREA**

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1 **I. INTRODUCTION**

2 Bell Timber, Inc. respectfully submits this Amended Sourcing Area
3 Application (“Application”) pursuant to the Forest Resources Conservation and
4 Shortage Relief Act of 1990, as amended, 16 U.S.C. §§ 620–620j, 36 C.F.R. §
5 223.190, and 7 C.F.R. part 1, subpart M.

6 **II. DESCRIPTION OF THE APPLICANT**

7 Bell Timber, Inc. (“BTI” or “Bell Timber”) is a Minnesota corporation with
8 its principal place of business in New Brighton, Minnesota. BTI is a wholly-
9 owned subsidiary of Bell Lumber and Pole Co. (“BLP” or “Bell Lumber”). BLP is
10 a Minnesota corporation, incorporated 1909, with its principal place of business in
11 New Brighton, Minnesota. Bell Lumber is a fifth generation, family-owned
12 company with small-business values: our commitment to excellence, our drive for
13 continuous improvement, and our dedication to delivering customized wood
14 products that exceed the expectations of our customers. Bell Lumber works to
15 help communities and individuals flourish, through our customers, suppliers,
16 employees and those served by our charity partners.

17 Bell Lumber is a leading producer of utility poles from species including
18 Western Red Cedar, Douglas Fir, Red Pine, Southern Yellow Pine, and Western
19 Larch. Bell Lumber operates peeler facilities at Longview, Washington;
20 Bellingham, Washington; Oldtown, Idaho; Barron, Wisconsin; and Broken Bow,

1 Oklahoma. Bell Lumber operates secondary processing, manufacturing, and
2 treatment facilities in Sidney, Nebraska; New Brighton, Minnesota; and Albert
3 Lea, Minnesota. Bell Timber handles all US wood procurement and inventory
4 storage activities for Bell Lumber including the operations at Longview and
5 Bellingham, Washington.

6 Through this application, Bell Timber seeks to establish a sourcing area for
7 the purpose of supplying Bell Lumber's Longview and Bellingham, Washington
8 facilities.

9 **III. TECHNICAL CRITERIA**

10 Bell Timber provides the following technical information to facilitate
11 processing this application in accordance with 36 C.F.R. § 223.190.

12 **A. Map of the Sourcing Area**

13 A map of the Sourcing Area boundary is attached as Exhibit A and sets forth
14 the areas wherein Bell Timber intends to acquire unprocessed timber from Federal
15 lands. *See* 36 C.F.R. § 223.190(1)(a). The map is of sufficient scale and detail to
16 show the following items:

- 17 1. Bell Timber's desired Sourcing Area boundary containing the private
18 and Federal lands from which it intends to acquire unprocessed timber
19 for sourcing its Longview and Bellingham, Washington,
20 manufacturing facilities.

1 2. The location of Bell Lumber's Longview and Bellingham
2 manufacturing facilities for which Bell Timber intends to source
3 unprocessed timber originating from Federal land.

4 Bell Lumber's Longview manufacturing facility is located at the following
5 address:

6 Bell Lumber & Pole Co., Inc.
7 1125 Weber Ave
8 Longview, WA 98632

9 The Longview facility primarily processes Coastal Douglas-fir (*Pseudotsuga*
10 *menziesii* var. *menziesii*) and Western red cedar (*Thuja plicata*). The facility
11 produces poles, posts, and pilings.

12 Bell Lumber's Bellingham manufacturing facility is located at the following
13 address:

14 Bell Lumber & Pole Co., Inc.
15 730 Marine Dr.
16 Bellingham, WA 98225

17 The Bellingham facility primarily processes Coastal Douglas-fir (*Pseudotsuga*
18 *menziesii* var. *menziesii*) and Western red cedar (*Thuja plicata*). The facility
19 produces poles, posts, and pilings.

20 Bell Timber has not acquired unprocessed timber originating from private
land located within the sourcing area that was exported, sold, traded, exchanged, or
otherwise conveyed to another person for the purpose of exporting such timber

1 within 24 months preceding the date of this application. Accordingly, the map
2 does not identify any such private lands, consistent with 36 C.F.R.
3 § 223.190(c)(1)(iii).

4 The map also identifies the location of Bell Lumber's Oldtown, Idaho
5 facility for ease of reference.

6 **B. Description of the Sourcing Area**

7 The boundaries of the proposed sourcing area follow appropriate features,
8 including major natural and cultural features, county boundaries, and rivers. The
9 Sourcing Area boundary is described as follows:

- 10 1. Beginning at a point that adjoins the border between the United States
11 of America and Canada, proceeding South on the Whatcom-
12 Okanogan County line to a point that adjoins the borders of Skagit,
13 Okanagan, and Chelan Counties;
- 14 2. From this point, South and West on the Skagit-Chelan County line to
15 a point that adjoins Skagit, Snohomish, and Chelan Counties;
- 16 3. From this point, South on the Snohomish-Chelan County line to a
17 point that adjoins Snohomish, Chelan, and King Counties;
- 18 4. From this point, South on the Chelan-King County line to a point that
19 adjoins Chelan, King, and Kittitas Counties;

20

- 1 5. From this point, East and South on the Chelan-Kittitas County line to
2 a point that adjoins Chelan, Kittitas, and Douglas Counties;
- 3 6. From this point, east on the Douglas-Kittitas County line to a point
4 that adjoins Douglas, Kittitas, and Grant Counties and intersects the
5 Columbia River;
- 6 7. From this point, downstream on the main channel of the Columbia
7 River to the confluence of the Snake and Columbia Rivers;
- 8 8. From this point, upstream on the main channel of the Snake River to a
9 point that adjoins the borders of the States of Washington and Idaho;
- 10 9. From this point, south along the Washington-Idaho border and
11 upstream on the Snake River to the point that adjoins the States of
12 Washington, Idaho, and Oregon;
- 13 10. From this point, South on the Oregon-Idaho border to the point that
14 adjoins the States of Oregon, Idaho, and Nevada;
- 15 11. From this point, East on the Idaho-Nevada border to a point that
16 adjoins the States of Idaho, Nevada, and Utah.
- 17 12. From this point, East on the Idaho-Utah border to a point that adjoins
18 the States of Idaho, Utah, and Wyoming.
- 19 13. From this point, South and East on the Wyoming-Utah border to a
20 point that adjoins the States of Wyoming, Utah, and Colorado.

- 1 14. From this point, East on the Wyoming-Colorado border to a point that
- 2 adjoins the States of Wyoming, Colorado, and Nebraska.
- 3 15. From this point East, and South on the Colorado-Nebraska border to a
- 4 point that adjoins the States of Colorado, Nebraska, and Kansas.
- 5 16. From this point, South on the Colorado-Kansas Border to a point that
- 6 adjoins the States of Colorado, Kansas, and Oklahoma.
- 7 17. From this point, West on the Colorado-Oklahoma border to a point
- 8 that adjoins the states of Colorado, Oklahoma, and New Mexico.
- 9 18. From this point, South on the New Mexico-Oklahoma border to a
- 10 point that adjoins the States of New Mexico, Oklahoma, and Texas.
- 11 19. From this point, South, West, and South on the New Mexico-Texas
- 12 border and downstream on the main channel of the Rio Grande River
- 13 to a point that adjoins the border of New Mexico, Texas, and Mexico,
- 14 near El Paso, Texas.

15 **C. Manufacturing Facilities in the General Vicinity**

16 Bell Timber has identified the following wood products manufacturing

17 facilities that are in the general vicinity of the Longview and Bellingham facilities,

18 that is, within approximately 30 miles or where manufacturers depend on the same

19 sources of timber or and have similar purchasing patterns. 36 C.F.R. §

20 223.190(i)(2).

1 Alta Forest Products

2 Morton, WA

3 Boise Cascade Wood Products, L.L.C.

4 Willamina, OR

5 Buse Timber & Sales, Inc.

6 Everett, WA

7 Cascade Hardwoods

8 Chehalis, WA

9 Freres Wood

10 Lyons, OR

11 Great Western Lumber Co.

12 Everson, WA

13 Hampton Lumber Mills

14 Darrington, WA

15 Morton, WA

16 Randle, WA

17 Clatskanie, OR

18 Warrenton, OR

19 Willamina, OR

20

1 Hull-Oakes Lumber Co.

2 Monroe, OR

3 Interfor

4 Longview, WA

5 Molalla, OR

6 Philomath, OR

7 Mt. Hood Forest Products

8 Hood River, OR

9 Murphy Company

10 Eugene, OR

11 Sweet Home, OR

12 Northwest Hardwoods

13 Centralia, WA

14 Longview, WA

15 McFarland Cascade

16 Sheridan, OR

17 Rosboro Lumber Co.

18 Veneta, OR

19 RSG Forest Products, Inc.

20 Kalama, WA

1 Clatskanie, OR

2 Molalla, OR

3 SDS Lumber Co.

4 Bingen, WA

5 Seneca Sawmill Co./Sierra Pacific Industries

6 Burlington, WA

7 Centralia, WA

8 Eugene, OR

9 Noti, OR

10 Starfire Lumber Co.

11 Cottage Grove, OR

12 Stella-Jones Corp.

13 Arlington, WA

14 Eugene, OR

15 Stimson Lumber

16 Clatskanie, OR

17 Gaston, OR

18 Tillamook, OR

19 Swanson Bros.

20 Noti, OR

1 Swanson Group

2 Springfield, OR

3 WKO, Inc.

4 Carson, WA

5 Weyerhaeuser Co.

6 Longview, WA

7 Santiam, OR

8 **D. Application Form**

9 The application cover page is on company letterhead and signed by Tom
10 Bell, President & CEO, Timber, Inc. The application repeats the certification
11 language contained in 36 C.F.R. § 223.190(4), in accordance with 16 U.S.C.
12 §§ 620(a)(2)(A) and 620f(a)(3)(B).

13 The above factors meet the technical criteria and procedures for sourcing
14 area applications found in 36 C.F.R. § 223.190.

15 **E. Geographically and Economically Separate Sourcing Area**
16 **Criteria**

17 The boundaries of the proposed sourcing area are geographically and
18 economically separate from any area that Bell Timber harvests or expects to
19 harvest for export any unprocessed timber originating from private lands, and
20 therefore satisfy 16 U.S.C. § 620b(c)(3)(A) and 36 C.F.R. § 223.186.

1 Bell Timber expects to harvest for export unprocessed timber harvested in
2 northeast Washington. The timber will be harvested on privately owned
3 timberland in Washington. Bell Timber does not own the land, nor does it possess
4 exclusive rights to harvest that exceed a seven-year period.

5 The areas are geographically and economically separate for several reasons.

6 First, the variants of Douglas-fir available in eastern Washington are not a
7 suitable substitute for utility pole manufacturing for those available within the
8 sourcing area. According to the American Wood Protection Association, Interior
9 Douglas-fir sourced from east of the Cascade Summit has limited acceptable uses.
10 These include farm poles, crossties, and round pilings. AWP Book of Standards §
11 U1-19, at 13–17 (2021). Interior Douglas-fir is referred to as *Pseudotsuga*
12 *menziesii* var. *glauca*, while Coastal Douglas-fir is *P. menziesii* var. *menziesii*. *Id.*
13 All of the areas from which Bell Timber expects to harvest for export produce var.
14 *glauca*, while the areas within the proposed sourcing area generally produce var.
15 *menziesii* if they produce Douglas-fir.

16 Within the portions of the sourcing area in Arizona, New Mexico, Utah, and
17 Colorado, Bell Timber expects that any purchases of unprocessed federal timber
18 will be of “Blue Denim” Ponderosa pine (*Pinus ponderosa*). Blue Denim is a
19 variety of pine that has been affected with a fungus known as *Grosmannia*
20 *clavigera*, which is transported by the mountain pine beetle and can be found from

1 Mexico to Canada at elevations ranging from sea level to 11,000 feet. Blue Denim
2 pine is generally viewed as unsuitable for export, and Bell Timber does not intend
3 to harvest any private Blue Denim for export outside the sourcing area.

4 Second, the sourcing area involves separate wood baskets, and generally
5 different National Forest units, from the potential export area. The sourcing area
6 includes all forests in Regions 5 and 6 with the exception of the Colville NF and
7 nearly all of the Okanogan-Wenatchee NF. The wood markets in eastern
8 Washington are separate from those in western Washington due to drier climate
9 and different species mix. The sourcing area includes western Washington and
10 western Oregon, generally wetter Forests, and the higher-elevation Forests of
11 California and eastern Oregon/southeast Washington.

12 Third, the sourcing area boundary follows County lines throughout, as well
13 as following the course of two major rivers and state boundaries for the majority of
14 the boundary. This satisfies the direction at 36 C.F.R. § 223.190(i)(4) that “[l]ines
15 defining the geographic area shall be based on major natural and cultural features,
16 including, but not limited to, prominent ridge systems, main roads or highways,
17 *rivers, political subdivisions*, and not characterized by random lines.” (emphasis
18 added). USDA previously has approved sourcing area applications with similar
19 boundaries. *In Re Springdale Lumber Co.*, 53 Agric. Dec. 1185, 1195 (U.S.D.A.
20 Dec. 1, 1994) (sourcing line follows crest of Cascades); *In Re Stimson Lumber Co.*,

1 54 Agric. Dec. 155 (1995) (areas west of Cascades are geographically separate
2 from areas east of Cascades); *In Re Kinzua Resources, L.L.C.*, 57 Agric. Dec. 1165
3 (1998) (same); *In Re Stimson Lumber Co.*, 53 Agric. Dec. 1108, 1113 (U.S.D.A.
4 June 16, 1994) (approving revision of sourcing area where the boundary “follows
5 political subdivisions”); *In Re Stimson Lumber Co.*, No. 12-0338, at 4 (U.S.D.A.
6 July 3, 2012) (Snake River an appropriate boundary).

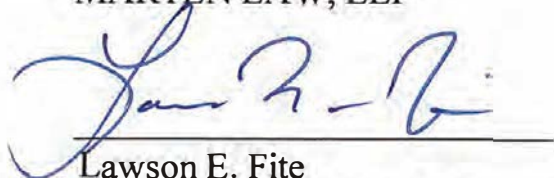
7 **IV. CONCLUSION**

8 Bell Timber requests the USDA approve this sourcing area application.

9
10 DATED: October 17, 2022.

11 Respectfully submitted,

12 MARTEN LAW, LLP

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EXHIBIT A

Bell Timber, Inc. Sourcing Area Boundary Map

