

DECISION RECORD

PROPOSED CLASSIFICATION OF PUBLIC LANDS FOR STATE OF OREGON INDEMNITY SELECTION Environmental Assessment No. OR090-99-20 State Selection (OR 49274)

BACKGROUND

On May 8, 1996, the State of Oregon filed application on 324.68 acres of Bureau of Land Management (BLM)-administered land in the Salem, Eugene, and Medford Districts as an Indemnity Selection for school lands the State of Oregon was granted under the provisions of the Act of Congress, approved February 14, 1859 (11 Stat. 383), and the Acts supplementary and amendatory thereto (the Oregon Statehood Act). This application would partially satisfy an obligation and debt owed by the United States to the State of Oregon as part of fulfilling statehood land grant rights. In State of Oregon v. BLM-USDI, No. 85-646-MA, slip op. at 3, 1991 WL 110206 (D.Or. June 17, 1991), the federal court found that the State of Oregon has an entitlement to 5,202.29 acres of BLM land (see also, State of Oregon v. BLM-USDI, 876 F.2d 1419 (9th Cir. 1989)).

Responsibility for processing the application was delegated from the BLM Oregon/Washington State Director to the BLM Eugene District Manager. The BLM prepared an environmental assessment (EA OR090-99-20) in August 1999, which analyzed the effects of the Proposed Action (to relinquish Federal ownership of 324.68 acres of BLM-administered land to the State of Oregon) and the No Action alternative. A Finding of No Significant Impact (FONSI) was signed on March 21, 2002.

Consultation with the U.S. Fish and Wildlife Service on the effect of the Proposed Action on the northern spotted owl and bald eagle has been completed for all parcels. Consultation with the National Marine Fisheries Service on the effect of the Proposed Action on listed anadromous fish species has been completed for the Medford parcels, but not for the Salem and Eugene parcels. The State of Oregon subsequently requested that the Salem and Eugene parcels be dropped from further consideration in their application and that the list of offered base land be revised. An amended application was submitted on January 30, 2002 which included only the three Medford parcels previously selected. The EA was revised to reflect the amended application (EA, Appendix A-2), to summarize public comments on the August 1999 EA and provide responses (EA, Appendix C), to make minor edits for clarity and to update the EA information. Legal descriptions and general information for the three Medford parcels are shown in the EA (appendices A-1, B). This decision addresses only the Medford parcels (parcels M-1, M-2 and M-3) with an aggregate of 144.68 acres.

The absence of a decision at this time on the Salem and Eugene parcels does not prejudice future indemnity selections by the State of Oregon or a future decision by BLM on transfer of those parcels.

The EA, FONSI, and consultation documents are available for review at the BLM Eugene District Office, 2890 Chad Drive, Eugene, Oregon (tel. 541 683-6600).

DECISION

Based on the analysis in the EA and the FONSI, and authority under Oregon/Washington State Office Delegation of Authority Manual Supplement 1203, Release 1-3-10 (dated 9/28/99), it is my decision to propose classification of the following lands, pursuant to 43 CFR Subpart 2400 and Section 7 of the Act of June 28, 1934, as suitable for transfer to the State of Oregon under the provisions of sections 2275 and 2276 of the revised statutes, as amended (43 USC 851, 852) and the regulations thereunder (43 CFR 2620):

Tract M-1 (Laurelhurst Cutoff) T. 33 S., R. 2 E., W.M. Sec. 30: Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)	Jackson County 41.93 acres
Tract M-2 (Schoolmarm East) T. 32 S., R. 3 E., W.M. Sec. 19: Lot 26 (SE $\frac{1}{4}$ NW $\frac{1}{4}$)	Jackson County 45.14 acres
Tract M-3 (Schoolmarm South) T. 32 S., R. 3 E., W.M. Sec. 19: Lot 32 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)	Jackson County 57.61 acres.

The transfer would be made subject to valid existing rights and:

Reserving:

- A. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).
- A. An easement and right-of-way over, across, and upon a strip of land 60 feet wide, being 30 feet on either side of the road center line, along the existing roads crossing Lot 4 of Section 30, T. 33 S., R 2 E. and Lots 26 and 32 of Section 19, T. 32 S., R. 3 E. W. M., as shown on the Official Bureau of Land Management status records for the State of Oregon, and further identified in case file OR 54242, for the full use as a road by the United States and its assigns, licensees, and permittees, including the right of access and use for and by the people of the United States generally, to lands owned, administered, or controlled by the United States.

- B. A right-of-way for road 6400-210 as reserved under Right-of-Way No. ORE 015692, pursuant to Title V of the Act of October 21, 1976 (43 U.S.C. 1767) as to Lots 26 and 32 of Section 19, T. 32 S., R. 3 E. W. M., and the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew or extend it upon its termination.

Subject to:

- A. Those rights for logging road purposes granted to Silver Butte Timber Company, its successors or assigns, by Reciprocal Right-of-Way Permit M-2000-C (OR 56841); Coast Range Resources LLC\Lone Rock Timber Company, its successors or assigns, by Reciprocal Right-of-Way Permit M-2000-D (OR 56842); Indian Hill LLC, its successors or assigns, by Reciprocal Right-of-Way Permit M-2000-E (OR 56843); and Superior Lumber Company, its successors or assigns, by Reciprocal Right-of-Way Permit M-2000-F (OR 56844), pursuant to the Act of January 21, 1895, as amended (formerly 43 U.S.C. 956); Act of June 9, 1916 (39 Stat. 218); and Act of August 28, 1937 (50 Stat. 874) as to Lot 4 of Section 30, T. 33 S., R. 2 E., W. M.

ALTERNATIVES

In addition to the Proposed Action, the EA analyzed the effects of No Action alternative, which would result in BLM retaining the parcels for which the State of Oregon has submitted application for transfer (EA, pp. 4, 10-11).

The EA did not analyze any action alternatives other than the Proposed Action because the State of Oregon has not submitted application for transfer of lands other than those identified in the Proposed Action (EA, p. 4).

RATIONALE FOR SELECTION

The Proposed Action would contribute to satisfying an obligation and debt owed by the United States to the State of Oregon. The lands described above have been found to be suitable for transfer to the State of Oregon, being vacant, unappropriated, nonmineral, surveyed public land within the State of Oregon, in accordance with the criteria of 43 CFR 2620. The transfer of the lands described above would be consistent with the land tenure decisions made in the Medford RMP (dated June 1995, pages 81-82); would not result in jeopardy to any listed species; and would not result in any significant impacts, as determined in the FONSI. The action will not have an adverse effect on the increased supply and availability of energy to our Nation.

The State of Oregon has requested that the Salem and Eugene parcels be dropped from further consideration in their application. Therefore, this determination addresses only the Medford parcels (parcels M-1, M-2 and M-3) with an aggregate of 144.68 acres. Appendix A-2, Base Land Information, has been revised to reflect the amended list of Base Lands, now totaling 135.47 acres, as submitted by the State of Oregon in its January 30, 2002 application. The BLM and the Oregon Division of State Lands have previously agreed through a Memorandum of Understanding that all remaining Indemnity Selections will be completed on the basis of approximately equal value of the selected and base lands rather than on the basis of equal

acreage. A valuation of both the selected and base lands has been prepared, concluding to a value for the selected lands (M-1, M-2 and M-3) of \$1,005,000 and for the base lands shown on Appendix A-2 of \$1,000,000. The value difference is within the twenty percent standard for being considered as equal for Indemnity Selection case processing purposes.

The No Action alternative would eventually result in the selection of other public lands by the State of Oregon for the fulfillment of the identified obligation. Because the transfer of the three Medford parcels would not result in any violation of applicable law, there is no reason to deny the application for these parcels in favor of some other future application by the State of Oregon.

CONSULTATION AND COORDINATION

Pursuant to the Endangered Species Act, consultation on the transfer of the three Medford parcels was completed with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, which concluded that the Proposed Action is not likely to jeopardize the continued existence of any listed species.

A public notice advertising the availability of the EA and preliminary FONSI appeared in October 1999 in local newspapers in the Salem, Eugene, and Medford areas. State and local government agencies were notified and their comments requested (EA, p. 12). A 30-day public comment period closed on November 5, 1999. Three comment letters were received. An appendix has been added to the EA to provide responses to these comments (EA, Appendix C).

ADMINISTRATION REVIEW OPPORTUNITIES

For a period of 30 days from the date of receipt of this proposed classification decision by those parties specified in 43 CFR 2450.3(a), interested parties may file protests to this classification decision with the Eugene District Manager in accordance with 43 CFR 2450.4. No particular form of protest is required. Protests should be mailed to:

District Manager
Bureau of Land Management
P.O. Box 10226
Eugene, OR 97440-2226.

If you have any questions about this decision, please contact Ronald Wold, Realty Specialist, Eugene District Office, at (541) 683-6403.

Julia Dougan
District Manager, Eugene

April 5, 2002
Date