

Deschutes & Ochoco National Forests Crooked River National Grassland

- ▶ Deschutes & Ochoco National Forests Home
- ▶ About Us
- ▶ Contact Us
- ▶ Current Conditions
- ▶ Employment
- ▶ FAQ'S
- ▶ Fire & Aviation
- ▶ Maps & Brochures
- ▶ Newsroom
- ▶ Passes & Permits

▼ Projects & Plans

Schedule of Proposed Actions

Project Information

Plans, Analyses, Assessments

- ▶ Publications
- ▶ Recreational Activities
- ▶ Volunteering

▶ Newberry National Volcanic Monument

- ▶ Conservation Ed.
- ▶ Contracting
- ▶ Health
- ▶ Forest Products
- ▶ Geology
- ▶ Heritage
- ▶ Partnerships
- ▶ Plantlife
- ▶ Water/Fisheries
- ▶ Wildlife

Projects & Plans

Project Documents

USDA-Forest Service, Pacific Northwest Region, Deschutes National Forest
Crescent Ranger District
Klamath County Oregon

Decision Notice and Finding Of No Significant Impact (FONSI)

Crescent Butte Land Conveyance Project

Introduction



Home

SCHEDULE OF PROJECTS

PROJECT INFORMATION

- ✦ **By Administrative Unit**
 - Deschutes SO
 - Bend/Fort Rock
 - Crescent
 - Sisters
 - Ochoco SO
 - Lookout Mtn.
 - Paulina
 - Crooked River NG
- ✦ **Forest Health, Fire, Fuels, Vegetation Management**
- ✦ **Wildlife**
- ✦ **Recreation**
- ✦ **Land Acquisition**
- ✦ **Miscellaneous**

PLANS, ANALYSES, ASSESSMENTS

▶ Links

▶ Evaluate Our Service

We welcome your comments on our service and your suggestions for improvement.

Forest

Deschutes National Forest

1001 SW Emkay Drive
Bend, OR 97702

(541) 383-5300

Ochoco National Forest

3160 N.E. 3rd Street
Prineville, OR 97754

(541) 416-6500

Crooked River National Grassland

813 S.W. Hwy. 97
Madras, OR 97741

(541) 475-9272



The Environmental Assessment (EA) for this land conveyance is available for public review at the Crescent Ranger District, in Crescent Oregon. The Environmental Assessment analyzes the proposed sale of a 0.8-acre parcel (a rectangle of 175 feet by 200 feet) of National Forest System land atop Crescent Butte on the Crescent Ranger District, Deschutes National Forest. The legal location is described as: the NE 1/4 SE 1/4 of Section 29, T. 24 S., R. 9 E., Willamette Meridian. The parcel contains improvements, including a radio tower, building, and fencing, which will be included in the sale, as well as an access easement and beam path easement. Refer to Figure 1 for a map of the location.

The parcel on Crescent Butte has been in federal ownership since the 1950s, after it was acquired by the Bonneville Power Administration for use as a radio tower site. In the 1960s, the BPA relocated its radio operations to Odell Butte and management of the site fell to the Forest Service. At one time the site served as a radio transmitter site for the Crescent Ranger District, but as technology changed, it was no longer used for that purpose. A cable television company began using the facility in 1992 with a temporary special-use permit and has maintained a television-receiving antenna on the tower since. The facility provides over-the-air channels as part of the cable company's service to the communities of Crescent and Gilchrist.

This parcel is surrounded by privately held lands (owned by Crown Pacific Corp.), with the nearest contiguous national forest system lands lying more than two miles away. Privately owned communication facilities also occupy the top of the Butte on the private land.

Purpose & Need

On November 22, 2000, the Bend Pine Nursery Land Conveyance Act was signed into law (P.L. 106-526). This Act authorized the Secretary of Agriculture to sell or exchange seven tracts of National Forest System land and improvements and to use the proceeds for National Forest Purposes. Sale of the Crescent Butte parcel (Tract H) of the property listed in the Act will achieve the purpose of the Act by allowing the Deschutes National Forest to dispose of excess government property while providing funding for new administrative facilities for the Deschutes National Forest.

Consequently, the primary purpose of the proposed action is to sell a 0.8-acre parcel of National Forest System Land and associated improvements in accordance with the Act.

Decision, Rationale, and Public Benefit Determination

Based on the results of the analysis documented in the EA, it is my decision to implement Alternative 2, which authorizes sale of the 0.8 acres along with all existing government improvements (such as the tower, radio building, and chain link fence), as well as the access easement and beam path easement (Equipment currently owned by the permit holder would not be included in the sale).

The property will be sold through competitive bidding procedures at not less than the current market value.

My reasons for selecting Alternative 2 and my determination of public benefit are as follows:

- Sale of the parcel meets the purpose and need of the Bend Pine Nursery Land Conveyance Act by allowing the Deschutes National Forest to dispose of excess government property and provide a source of funding to help finance future administrative facilities for the Forest.
- This conveyance will provide for more efficient management of National Forest lands by eliminating a small federal in-holding surrounded by privately held industrial forest lands.
- There will be no cumulative effect or loss of viability across the Forest for any PETS or forest species of concern with the implementation of this project.
- No national forest system lands lie adjacent to the parcel and so the intended use of the conveyed Federal land will not conflict with established management objectives on National Forest land. Local county zoning and ordinances will regulate the amount and type of future development on the property. These ordinances will adequately provide protection commensurate with the site's current character in terms of air and water quality, visual quality, wildlife, or other resources.
- The site is suitable for current use for a communications site; however, budget constraints have resulted in little development and improvement of the site for this purpose. Conveyance will therefore allow for site development in the private sector as the need arises.

Other Alternatives Considered

The EA displays Alternative 1, a no-action alternative. In this alternative, the sale would not occur. This alternative was not selected because it does not meet the purpose and need for the action as described in the EA.

Why Deed Restrictions were not Considered

During scoping and public involvement, it was suggested that the use of deed restrictions may be appropriate in order to avoid future impacts from site development (specifically as a cell phone tower site), and/or to insure that the communities of Crescent/Gilchrist continue to receive over-air television signals through the local cable television service provider.

Neither of these reasons to apply deed restrictions represent a compelling Federal interest to protect, and so based on the fact that conveyance of the property with deed restrictions is inconsistent with Forest Service policy, direction and regulation, such an alternative would not be implemented, and thus it merited no consideration.

As part of this analysis, I took into account the following Forest Service direction:

- Forest Service Manual 5474 Deed Restrictions and Conditions. **In conveyances of National Forest System lands, in addition to reservations, it may be necessary to apply specific limiting conditions to manage effectively or to protect National Forest System lands and resources.**
- Federal Register Notice of March 8, 1994, Part II, Department of Agriculture, Forest Service. 36 CFR 254 Land Exchanges; Final Rule.

An indication of the intent of this regulation (36 CFR 254.3(h) Reservations or restrictions in the public interest) can be found by reviewing the specific comments that address "public interest." The Response to comments contains references to "protecting critical interest" and restrictions to protect "any federal interests." The regulation itself states that "(t)he use or development of lands conveyed out of federal ownership are subject to....all laws, regulations and zoning authorities of State and local governing bodies."

In conclusion, Region 6 Forest Service interpretation of these policies is that deed restrictions are to be imposed in rare occasions when necessary to protect **critical Federal interests**. Neither scoping nor evaluation of the Federal land by specialists identified any critical resources, including visual resources, or National Forest System lands in need of protection through deed restrictions. The use of deed restrictions is not consistent with the Forest Service goal of improving the effectiveness and efficiency of its management, nor is it consistent with the stated Purpose and Need of providing a means for more efficient development of the site for communications purposes once in private ownership. The Forest has identified this property for disposal because of its isolated status, surrounded by private land. Administration of deed restrictions can be extremely complicated, time-consuming and expensive, resulting in a potential decrease in management efficiency, instead of the intended increase.

Finally, deed restrictions are not imposed to protect property interests on adjacent private property. The Forest Service has long taken the position that zoning and regulation of uses on private land are within the responsibility of state and local governments. Local authorities are in the best position to determine appropriate uses of private land. The Forest Service has neither the legal authority or responsibility to substitute deed restrictions for local zoning controls. Local governments have traditionally agreed and insisted that such decisions be left to them.

Public Involvement

On March 28, 2001, a letter describing the proposed sale of public land was sent to 95 individuals, groups, and agencies. A short article also appeared in The Bend Bulletin in early June describing the proposed project.

Four comments were received, ranging from qualified support of the proposal, to concerns raised about the impact sale of the tract might have on local television service. Also, a suggestion was made that the Forest Service should seek to lease the site to the highest bidder, rather than sell it because of its potential value as a communications site.

No key issues arose during the scoping process.

The EA was mailed to agencies and individuals who had shown an interest in the project on August 3, 2001. Also, the public was notified that the EA was prepared for this project and available for a 30-day review period. This notification was given by a legal notice in The Bulletin (Bend, Oregon) on August 1, 2001. One phone call and three letters were received to provide feedback on the EA. The comment by phone call expressed concern that the site could be used in the future for a cellular phone tower. The written comments raised concerns with potential impacts of the site, conveyance of lands out of public ownership, and loss of access by the communities to over-air television signals. Specific responses to these comments are found in Appendix A of the EA and in the discussion of deed restrictions beginning on page 2 of this Decision Notice.

Finding Of No Significant Impact

I have determined that implementing this decision is not a major Federal action that would significantly affect the quality of the human environment; therefore an Environmental Impact Statement will not be prepared. This determination is based on the site-specific environmental analysis documented in the Environmental Assessment and supporting documents (e.g. the biological evaluation), which describe direct, indirect and cumulative impacts of this decision. This determination is also made with consideration of past, present, and reasonably foreseeable future actions on National Forest System land and other ownership's within potentially affected areas that could have a cumulatively significant effect on the quality of the human environment.

I have found the context of the environmental impacts of this decision is limited to the local area and is not significant. I have also determined the severity of these impacts is not significant, considering the following factors of intensity:

1. The analysis considered both beneficial and adverse effects (EA pp. 3-6)
2. There are no known adverse impacts to public safety (EA page 4).
3. No unique characteristics of the geographic area such as cultural resources and wetlands will be adversely affected (EA page 3 and 5).
4. The effects on the quality of the human environment are not likely to be highly controversial (EA pp. 3-6).
5. The degree of possible effects on the human environment are not

highly uncertain, nor are there unique or unknown risks involved (EA pp. 3-6).

6. The actions should not set a precedent for future actions which may have significant effects, nor do these actions represent a decision in principle about a future consideration. These actions do not set a precedent for other projects that may be implemented to meet the goals and objectives of the LRMP (EA pp. 3-6).
7. These actions are not related to other actions that, when combined, will have significant impacts (EA pp. 3-6).
8. The field surveys for sites, objects, etc., listed or eligible for listing in the National Register of Historic Places have been completed. No sites are found, and so this conveyance will not contribute to the loss or destruction of significant scientific, cultural, or historic resources (EA pp. 4).
9. As described in the Environmental Assessment and Biological Evaluation, this action will have no adverse impact to any threatened or endangered species of plant or animal. (EA pp. 3-6).
10. This action does not threaten to violate Federal, State, or local law, or requirements imposed for the protection of the environment (EA pp. 3-6).

Other findings

- Irreversible and irretrievable commitments of resources are minimal and do not include impacts to timber production, wildlife habitats, soil production, or water quality that have not been addressed in the FEIS for the Deschutes National Forest Land and Resource Management Plan (EA page 5).
- The exchange complies with Executive Orders 11988 and 11990 (floodplains and wetlands) (EA page 4).
- There are no known hazardous waste locations on the tract (EA page 4).
- This decision is consistent with the LRMP's management objectives. The 1990 Deschutes National Forest Land and Resource Management Plan identified "Group 4" lands as those isolated parcels of federal land situated away from contiguous blocks of federal land and within non-federal lands being managed for intensive uses (e.g. high yield forestry). Federal lands in this group will normally be available for disposal. Crescent Butte lies within this Group 4 area (LRMP page 4-87).
- This land conveyance meets the Forest Plan land adjustment goal of providing for efficiency of management (LRMP page 4-87).
- This decision complies with all applicable laws and regulations, including but not limited to the Bend Pine Nursery Land Conveyance Act (PL 106-526).

Administrative Review And Appeal Rights

This decision is subject to administrative review (appeal) pursuant to 36 CFR 215.7. Any written notice of appeal of this decision must be fully consistent with 36 CFR 215.14 and must include the reasons for the appeal. A written notice of appeal must be filed with the

Reviewing Officer within 45 days of the date legal notice of this decision appears in the Oregonian (Portland, Oregon). File a notice of appeal with:

Dale N. Bosworth
Chief USDA Forest Service
Sidney R. Yates Federal Building
201 14th Street at Independence Avenue
Washington D.C. 20250
Attention: 1570 Appeals

Further information about this decision can be obtained from Beth Peer at the Crescent Ranger District, Deschutes National Forest (P.O. Box 208, Crescent, OR 97733), telephone 541-433-3200. TTY/TDD: 541-433-3277, FAX: 541-433-3224.

Implementation

If no appeal is received, implementation of this decision may occur on, but not before, 5 business days following the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

/S/ Nancy Graybeal
Dated: May 28, 2002
Harv Forsgren
Regional Forester
Pacific Northwest Region (R-6)

(for) NANCY GRAYBEAL
Deputy Regional Forester

The U. S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or familial status. (Not all prohibited bases apply to all programs.) Personas with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's target center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-w, Whitten Building, 1400 Independence Ave. SW, Washington, DC 20250-9410 or call 202-720-5964 (voice or TDD).

USDA is an equal opportunity provider and employer.

[top](#)

[Disclaimers](#) | [Privacy Policy](#) | [Print This Page](#)

USDA Forest Service - Deschutes & Ochoco National Forests
Last Modified: Thursday, 24 June 2004 at 14:23:22 EDT