

Deschutes & Ochoco National Forests

Crooked River National Grassland

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INTRODUCTION

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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



An Environmental Assessment (EA) for the Tract C Land Conveyance was prepared by an interdisciplinary team and documents the environmental analysis evaluating the proposed conveyance of approximately 950 acres of National Forest System land. The parcels considered for conveyance out of federal ownership are located in central Oregon, on the Bend-Fort Rock Ranger District, approximately 16 to 18 miles south of Bend, Oregon. One parcel lies just south of Sunriver, Oregon and the other is about 5 miles farther southwest ([refer to attached map](#)). Supporting documentation for the EA, including public input, is located in the Project File at the Deschutes National Forest Headquarters in Bend, Oregon. This Decision Notice and the Environmental Assessment are available for review on the Deschutes National Forest website at: www.fs.fed.us/r6/centraloregon/projects/units/bendrock/tractc/index.shtml or upon request.

PURPOSE AND NEED

The primary purpose for conveying the lands out of federal ownership is to dispose of these isolated tracts of National Forest System lands that have lost their National Forest character and are difficult to manage. Sale of the lands would have a second purpose, which is to use the proceeds to help fund new Forest Service administrative facilities, as provided in the 2000 Bend Pine Nursery Land Conveyance Act (Public Law 106-526). Exchange of the lands would have a third purpose, which is to acquire private lands that would contribute significant resource values to the National Forest System, or otherwise be in the public interest to acquire.

DECISION

I have reviewed the issues, alternatives, and effects documented in the Environmental Assessment and project file. I have considered the public comments submitted during the public review period. I have also considered my responsibilities and authorities pertaining to applicable laws, regulations, and policies. Sufficient information has been reviewed and disclosed in the analysis to make a reasoned choice among the alternatives. Based on this information, I have decided to implement Alternative B, the Proposed Action, and convey the entire Vandeventer parcel and the Foster Road parcel out of federal ownership, using a competitive bid process. The following provides further information about my decision.

1. Alternative B meets all three elements of the Purpose and Need statement. It allows the Deschutes National Forest to improve efficiencies by no longer having to spend funds and time addressing illegal dumping, firewood cutting, and timber removal on these lands, or administer utility and road easements or permits. Each of these uses are indicative of the increasing urban influences and residential setting, and all contribute to the "loss of National Forest character. The fact that these properties are separated and isolated from other much larger contiguous blocks of National Forest lands and nearly surrounded by private lands

intensifies the situation.

2. Details of the marketing and competitive bid procedures will be developed during the project implementation phase. Planning and implementing the conveyance process, including valuation, consists of a series of administrative actions which will be carried out as efficiently as possible and in accordance with all applicable laws, regulations, and policies for National Forest System lands.
3. The properties are to be advertised and marketed for cash sales using a competitive bid process. This will best meet the purpose and need to fund new Forest Service administrative facilities, and would do so in the most timely and efficient manner. It is my expectation that preparations for the conveyances will take place as soon as practicable after my decision is final, in order to best utilize the funds that have been collected and to maximize the Forest Service's purchasing power.
4. An exchange for private lands that would provide significant public benefits to the National Forest System may also be considered, if processing an exchange will not unduly slow or encumber the conveyance process or adversely affect our ability to fund new administrative facilities. The preferred method and the priority for conveyance, however, will be by means of a cash sale resulting from a competitive bid.
5. If the Forest Service determines that the bids do not adequately represent the market or are not acceptable for any other reason, I reserve the right to reject any or all bids. I also reserve the right to reconfigure or further subdivide any of the properties and re-advertise, if doing so would appear to be more advantageous to the Forest Service and/or increase the market value of the properties.
6. All existing easements associated with the parcels will be transferred with the properties, and will be included in the conveyance documents (i.e.: quitclaim deeds). Existing special use permits authorizing utility lines will be converted to easements at the time of closing and also included in the appropriate deeds. A new easement to Deschutes County for the proposed road at the north end of the Vandeventer parcel (in conjunction with the proposed Highway 97/Road 42 interchange project), may also be included as an easement in the conveyance document.
7. The purchaser will be responsible for the easement documents, land and boundary surveys, partitions, local land use approvals, or any other documentation or actions that may be required or desired in order to transfer ownership and use the properties. It will also be the purchaser's responsibility to ensure that their intended use is compatible, or could be made compatible, with local land use rules, regulations, and zoning.

PUBLIC BENEFIT DETERMINATION

I have concluded that the conveyance of these federal lands is in the public interest, and that conveyance of the parcels outweigh benefits of keeping them in federal ownership. The parcels are isolated National Forest properties, nearly surrounded by private land. It is difficult and not cost effective to manage these lands as part of the National Forest System, given their rural residential setting,

configuration, size, and existing or increasing encroachments and unauthorized uses. These parcels are identified as being available for disposal under the Bend Pine Nursery Land Conveyance Act signed into law November 22, 2000. This decision implements the Act, allowing the lands to be used for purposes potentially better suited to the location.

The properties have lost their character and are no longer representative of a National Forest, even though people in the local neighborhood may feel that they still have local character as wooded or forested areas. The trees provide pleasant aesthetics to the local residents, but the area can no longer be effectively managed for broader National Forest goals. The properties have become heavily influenced by their rural residential setting. Unauthorized uses, including dumping of garbage, creation of new roads and trails, and illegal firewood and tree removal, have all contributed to the loss of National Forest character. It may not be apparent to the casual visitor that these are National Forest lands.

Future land uses will be under the jurisdiction of county and state regulations and zoning requirements, and I am confident that future approved uses would be balanced and responsive to local community needs, protect local resources and scenic values, and incorporate site specific concerns of nearby residents and the local public. Social issues such as school needs, transportation, and water and sewer services, would be considered and addressed in the land use application process for any developments proposed in the future. I believe that under private ownership, the properties would be utilized in a way that is more responsive to the needs and economy of the local area.

OTHER ALTERNATIVES CONSIDERED

1. The No Action Alternative (Alternative A).

I did not select the No Action alternative because it would not meet the purpose and need stated in the EA. Alternative A would not provide an opportunity to dispose of these tracts that are difficult to effectively manage and have lost their character as National Forest System lands. The No Action Alternative also would not provide an opportunity to use sale proceeds to help fund new administrative facilities and therefore would not reduce our use of costly leased offices, nor would it provide an opportunity for the Forest Service to acquire private lands with desirable resource values.

2. Alternatives Eliminated from Detailed Study

Forest Service specialists did not find that any other alternatives were necessary, based on studies of existing resources and environmental effects. Public comments did not suggest any additional alternatives to consider.

Options that could involve selling some of the lands while retaining others were considered during the preparation of the EA, but they would not have provided a better range of action alternatives. It would not have been practical for the analysis to consider alternatives that would convey only a portion of the lands, as the combinations could be endless and it would have been unproductive to describe and compare these in detail. Before making my decision,

I considered whether to sell or exchange less than 950 acres, but I determined that only selling portions of these tracts would not have additional public benefits, and it would not meet the purpose and need.

ISSUES

A list of issues and items of concern were developed during scoping and incorporated during the environmental analysis and preparation of the Environmental Assessment. Three comments were received during the 30-day public review and comment period for the EA, but they did not suggest any new issues or effects that would require additional analysis, and they did not provide any factual supporting information contrary to the analysis. Summaries of public input are in the project file. Issues that may be of particular interest are summarized below.

Effects to Nearby Residents and Communities

Once the lands are conveyed out of federal ownership, adjacent residents would likely no longer be able to use these lands as they have as a convenient location for hiking or other limited recreation uses. Unfortunately, the Forest Service cannot maintain ownership of these lands solely for the benefit of some of the residents of adjacent subdivisions. Nearby residents may be able to receive permission from the purchaser to continue some uses. Nearby homeowners (individually or collectively) would also have an opportunity to bid on the land and potentially be able to purchase property for their own or community use. Selling the South Vandever parcel as one bid item or further divided into two smaller parcels, for example, may help make this more feasible.

Once in private ownership, future uses of the properties would be subject to local and state land use zoning, regulations, processes, and approvals. Site development plans, layout, design, and mitigation measures would be considered in local land use review processes if development is pursued. Local residents would be able to provide site specific input at that time.

Issues and concerns specific to development proposals will be considered and addressed at the county and state level during the land use application and review processes. Approval of future development proposals are beyond the scope of my decision.

Wildlife

Future use by wildlife would depend upon the amount of forest habitat and open space that is retained and how it is utilized and managed in the future. Even though the parcels have been in federal ownership, they show evidence of a considerable amount of human influence due to their small size, configuration, and isolation from other National Forest lands, and cannot effectively be managed by the Forest Service for wildlife habitat. Neighboring homes and subdivisions, roads and traffic, utility corridors, recreation use, and

other legal and illegal uses influence the quality of the habitat.

To minimize negative effects on wildlife, there are a number of actions future landowners could take when planning to use the property. Mitigation measures and conditions for development could be considered by Deschutes County during the land use application review process to ensure that wildlife habitat is appropriately addressed or conserved. Deschutes County, with coordination from Oregon Department of Fish & Wildlife (ODFW), would be responsible for oversight and approval regarding future land use actions and development on these parcels. With proper planning that considers wildlife needs, the areas could continue to be of value as wildlife habitat. Ultimately, it would be up to the private landowner and local land use objectives.

Social, Aesthetic, and Visual Quality

The segments of scenic corridors to which the properties contribute would no longer be managed under Forest Service standards and guidelines. State of Oregon and Deschutes County rules and regulations would guide future development along these scenic roads and travel corridors, and would be expected to help protect the area's existing scenic forest attributes.

Some alteration of the existing landscape and wooded features would occur with rural homesite development, and impacts would depend on how alterations would appear from roads or other key locations. Adhering to local zoning rules and regulations, maintaining healthy vegetation, and establishing buffer zones in a scenic corridor would help maintain the area's scenic and aesthetic values and help minimize visual changes. Mitigation measures would be considered and required as needed by Deschutes County during the land use review and approval process.

Under private ownership, the land would no longer be open to the public. Individuals would have to obtain permission for access or go elsewhere to pursue the limited recreational opportunities, such as walking and mountain biking, as well as the illegal activities such as wood cutting and dumping garbage and debris, that the parcels provided.

Effects of a destination resort development in the North Vandeventer parcel would likely be more conspicuous than rural homesites, and existing dispersed public recreation opportunities would be replaced by highly managed activities and facilities. Ultimately, the nature of the effects would depend on the type of development, design, and other details that are proposed. State and county land use regulations for destination resorts would guide development and should ensure that proposed developments are suited to the location and are of a quality expected for that area.

PUBLIC INVOLVEMENT

A Notice of Public Scoping letter was sent to about 1,000 addresses on September 12, 2003. These included addresses in Oregon Water Wonderland Unit II, addresses near the Vandeventer site, known

interested parties, and others on existing Forest Service mailing lists. News articles about the project were published in local newspapers, and the proposal has been listed in the Schedule of Projects published by the Deschutes and Ochoco National Forests and Prineville District Bureau of Land Management (BLM).

On May 17, 2004, copies of the Environmental Assessment were mailed or otherwise made available. A Notice of Public Comment Period was sent to nearly 1,000 addresses, published in The Bulletin newspaper, and posted on the website for the Deschutes National Forest. Three individuals provided comments, which were summarized and addressed in the Forest Service's Comment Summary document, located in the project file.

FINDING OF NO SIGNIFICANT IMPACT

I have determined that implementing this decision and conveying approximately 950 acres of National Forest System land out of federal ownership 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 which describe direct, indirect, and cumulative impacts of this decision.

I have found the context of the environmental effects 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 ten factors of intensity:

1. The analysis considered both beneficial and adverse effects (EA, Environmental Effects Section 3, pages 5-23).
2. There are no known adverse impacts to public health and safety (EA, Section 3.4, pages 15-23). Future fire risk would depend on the use and management of the lands once they are in private ownership, and the risk could be considerably reduced if the area north of Vandever Road is developed as a destination resort (EA, pages 18-19). There are no hazardous materials on the properties (EA, page 23).
3. There will be no significant adverse impacts to unique characteristics of the geographic area such as proximity to historic or cultural resources, wetlands, wild and scenic rivers, floodplains, prime farm lands, old growth forests, range and forest land, or ecologically critical areas. A restrictive deed covenant will ensure protection of the small wetland area and my decision will not affect the features or water quality of the Upper Deschutes Wild and Scenic River. (EA pages 7-8, 9, 16, 19, 23).
4. The effects of implementation of this decision are not likely to rise to the level of scientific controversy as defined by the Council of Environmental Quality. There has been no scientific dispute or controversy concerning estimated effects of the Proposed Action. The EA provides factual information to support the decision.
5. Based on previous similar actions, the probable effects of this decision on the human environment are well known and do not involve unique or unknown risks. Future uses are expected to be

similar to others in the area and would be authorized in accordance with state and county laws and regulations. (EA pages 13-14, 16).

6. This action does 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. There are no other land sales proposed or planned in the area, and this action implements the 2000 Bend Pine Nursery Land Conveyance Act which identifies specific tracts of land that are available for conveyance.
7. This decision is made with consideration of past, present, and reasonably foreseeable future actions on National Forest System lands and other ownerships within potentially affected areas that could have a cumulatively significant adverse effect on the quality of the human environment. I find there to be no such cumulative significance.
8. The parcels were surveyed for heritage and cultural resources, and seventeen cultural resource sites were identified. The Forest Service determined that the sale of either parcel would have no adverse effect on any National Register eligible historic or archaeological sites or tribal interests, and Oregon State Historic Preservation Office (SHPO) concurrence of this finding was received September 3, 2004. The Forest Service determined that sixteen of the sites lack integrity and therefore significant archaeological or historical data; however, one historic site was determined significant and will be subjected to recovery of historic and archaeological data through a mitigation plan. Currently, the Forest Service is consulting with Oregon SHPO to develop an approved mitigation plan. Once developed, the plan will be implemented under a Memorandum of Agreement between Oregon SHPO and one or more parties that could include the Forest Service, Deschutes County, and/or the new landowner. It is possible that the new landowner of the affected property may have to contribute funding or assistance with the mitigation plan. Consequently, conveyance will not contribute to the loss or destruction of significant scientific, cultural, or historic resources. (EA page 19).
9. As described in the Environmental Assessment and documented in the project records, this action will have no adverse impact on any threatened or endangered species of animal or plant. (EA pages 8, 11, 21).
10. This action does not threaten to violate federal, state, or local laws or requirements imposed for the protection of the environment. This action implements Public Law 106-526 (Bend Pine Nursery Land Conveyance Act) authorizing the conveyance, and invokes Executive Order 11990 for protection of the wetland within the Foster Road parcel.

OTHER FINDINGS

This decision is within the authority given the Forest Service by the 2000 Bend Pine Nursery Land Conveyance Act (P.L. 106-526), and is consistent with the direction contained in the 1990 Deschutes National Forest Land and Resource Management Plan and amendments. (EA, pages 1, 6-7, 16).

This decision is in compliance with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations". There is no evidence to indicate there would be a disproportionate adverse effect on minorities, low-income populations, or other specific groups with the selected alternative. Employment opportunities provided in the destination resort scenario would include service, construction, and maintenance positions, and would present a positive effect. (EA, page 22).

The conveyance complies with Executive Orders 11988 and 11990 which address floodplains and wetlands. The parcel is not within a floodplain and does not meet the criteria for Executive Order 11988. To ensure that the 6-acre wetland area within the Foster Road parcel would not be affected by the conveyance, a protective covenant will be included in the conveyance deed.

Irreversible and irretrievable commitments of resources are minimal and do not include impacts to timber production, wildlife habitats, or soil production. The decision is consistent with the interim Inland Native Fish Strategy, as conveyance would not affect local surface waters or water quality.

An investigation has been made, and there are no known hazardous waste locations on the parcel. (EA page 23).

Other than the protective covenant for the 6-acre wetland site, it has been determined that no other restrictions are needed to protect public resources.

ADMINISTRATIVE REVIEW AND APPEAL PROCEDURES

This decision is subject to administrative review (appeal) pursuant to 36 CFR 215. 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, including attachments, must be postmarked or delivered within 45 days of the date legal notice of this decision appears in The Bulletin newspaper, Bend, Oregon. To insure delivery, it is recommended that appellants use express or overnight mail delivery to the address provided. Appeals must be filed with Forest Service Chief Dale Bosworth at:

USDA Forest Service
Ecosystem Management Coordination
Attn: Appeals
Yates Building 3 CEN
201 14 th St. SW
Washington, D.C. 20024

Electronic appeals will also be accepted, but they must be submitted as part of the actual e-mail message or as an attachment in Microsoft Word (.doc), rich text format (.rtf), or portable document format (.pdf) only. E-mails submitted to addresses other than the one listed above, in formats other than those listed, or containing viruses, will be rejected. Appeals can be filed electronically with Chief Bosworth at the following address: appeals-chief@fs.fed.us

Appeals may also be faxed to 202-205-1012. It is the responsibility of the appellant to confirm receipt of any appeals submitted.

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 until after 15 business days following the date of appeal disposition.

CONTACT

Further information about this decision can be obtained from Alice Doremus at the Deschutes National Forest Headquarters, 1645 Highway 20 East, Bend, OR 97701, telephone 541-383-5580 or 541-383-5300. Additional information may also be obtained by calling Mark Macfarlane, Bend-Fort Rock Ranger District, at 541-383-4769.

____ /s/ Linda Goodman _____

10/6/04_____

LINDA GOODMAN
Regional Forester
Pacific Northwest Region
USDA Forest Service

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Date

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