

Decision Notice and Finding of No Significant Impact

For The

City of Sisters Townsite Act Conveyance EA

**Sisters Ranger District, Deschutes National Forest
Deschutes County, Oregon**

Location

The City of Sisters has applied to acquire 240 acres of National Forest System land under the authority of the Townsite Act for purposes of constructing and operating a community sewage and wastewater treatment facility. The parcel is located adjacent to the City of Sisters Urban Growth Boundary in Township 15 South, Range 10 East, Section 9, SE 1/4, and E 1/2 SW 1/4 Willamette Meridian (Figure 1), hereinafter referred to as Section 9 or the parcel. The area is within the Squaw Creek Subwatershed and outside the range of the northern spotted owl.

Decision

Following review of the alternatives and effects disclosed in the Environmental Assessment (EA) and careful consideration of public comment, I have decided to authorize implementation of **Alternative C** which conveys 160 acres under the authority of the Townsite Act to the City of Sisters at appraised fair market value for construction and operation of a sewage and wastewater facility.

My decision allows for issuance, if necessary, of a short-term special use permit. The term of the permit would be for a maximum of one year. I will consider the issuance of a short-term special use permit only in conjunction with the City's ultimate acquisition of the land by purchase under the authority of the Townsite Act, and only if needed by the City as an interim measure to begin construction until title of the land is legally transferred to the City via a Townsite Act sale.

The City has committed to begin a facilitated process in September, 1999, to engage its residents in discussing and reaching resolution on how this parcel can best be used to meet the community's long-term objectives and needs while operating a sewage and wastewater facility. At the conclusion of that process the City may request that the Forest Service consider selling the balance of the 240 acres that is

not conveyed to them with this current decision. If these needs are consistent with the authorities of the Townsite Act, the Forest Service may consider conducting a new environmental analysis (incorporated by reference to this EA) and issue another Decision Notice to address that request.

Reasons For the Decision

Since the early 1970's, the City has recognized a need for managing community sewage and wastewater. They identified a need to acquire sufficient land to locate a facility, mitigate social and environmental concerns, and expand the facilities as the community grows. It has been a long process, but the community has demonstrated support for a system by voting to publicly fund the facility in the spring of 1998. In January 1999, the City filed an application with the Forest Service to purchase the proposed lands under the legal authority of the Townsite Act.

The Forest Service recognizes the importance to the City of developing an environmentally and socially responsible means to treat the community's sewage and wastewater. The Forest Service also recognizes that the City's ability to treat its sewage and wastewater effectively is essential to one of our key goals in managing the National Forest . . . to protect and restore the long-term health of the Squaw Creek watershed which some day may host the return of an anadromous fish run.

Under the authority of the Townsite Act, the decision I must make is whether the community's objectives and needs to acquire the National Forest System land to construct and operate a sewage and wastewater treatment facility outweighs the value to the public in retaining the land in the National Forest System. I did not consider other potential purposes for which the land might be used to meet community needs. The City's application to purchase land under the Townsite Act was specifically for purposes of construction and operation of a community sewage and wastewater system.

In arriving at a decision, I considered the issues and weighed the advantages and disadvantages of each of the alternatives. The reasons which lead me to favor this decision are the following:

- The 160 acres will meet the City's needs for at least 10 years, and possibly for the long-term depending upon how the City and it's residents utilize the land.
- Alternative C responds to public comment which encourages the City to make efficient use of the land for the wastewater treatment facility and to involve the community in the best use of the land to meet future community needs before more land is acquired.
- The cost of acquiring 160 acres as opposed to 240 acres at appraised fair market value would be less to the current City residents. If the City needs to acquire additional land in the future, those costs can be shared by future residents and developers.
- In Alternative C, the bike trail, which is very popular with the community, would remain mostly in place in its current location on National Forest lands.
- Mule deer and other wildlife will continue to use the area. The wastewater operation may actually increase the opportunity to view wildlife which would be attracted to the water.
- Existing access to adjacent and nearby private lands would not be changed.

Alternatives Considered

There were two other alternatives which were considered in detail (Alternatives A and B). These alternatives were not selected for the following reasons:

Alternative A (No Action) - Implementation of the "No Action" alternative would delay the City's construction of a sewage and wastewater facility for several years while they try to obtain an alternate location. The City has found no other suitable lands than in Section 9 to locate a sewage and wastewater facility. Local residents and business' would continue to use individual subsurface sewage disposal. Partnership funding from local contractors could disappear since construction of individual sewage and wastewater systems for each new development would be necessary. Meanwhile, the City would rely on the current system in violation of Oregon Department of Environmental Quality (DEQ) and Deschutes County groundwater protection policies. Risk of potential degradation to water quality in Squaw Creek and its associated floodplain from cumulative use of individual septic systems is greater with this alternative based on similar conditions in other communities.

Alternative B (Proposed Action) - Implementation of this alternative would convey 240 acres to the City for long-term community sewage and wastewater disposal. This alternative was not selected because many respondents were concerned about the lands held in reserve for future needs. Public comment indicated broad-based support for a community sewage and wastewater treatment facility, but it appears there is not broad-based support or agreement for whatever other community purposes the land could be used for. Concerns were also expressed about the future of the bike trail and public access to the parcel if Alternative B was selected. Selection of an alternative which meets the City's immediate needs for a sewage and wastewater treatment facility but provides less reserve land would encourage a dialogue with the City and its residents regarding how much of this parcel of land is really needed and how it should be used to meet the communities long-term needs. The City of Sisters is currently committed to a 180-day community-based process which will look closely at their long-term needs for the parcel.

This alternative would require the current residents of Sisters to pay for all of the reserve lands now, instead of allowing future growth to be a partner in funding expansion of the facilities. Also, this alternative retains a relatively small National Forest inholding (20 acres) which was not needed by the City for sewage and wastewater disposal. Small parcels, such as this one, are difficult to manage for National Forest purposes and are not desired by the Forest Service. Alternative C leaves a larger tract of land (100 acres) in the National Forest System, which has more options for current and long-term management - including possible trade for other lands at some future date.

Public Involvement

In accordance with the Townsite Act, a 45 day public notice for the City's application appeared in The Nugget and The Bulletin on a weekly basis starting in February of 1999 and ending on March 17. A

copy of the Forest Service scoping letter was provided to approximately 240 individuals, businesses, and organizations who have an interest in the process. An announcement of the proposed land acquisition was included in the winter of 1998/1999 and spring 1999 edition of the central Oregon Schedule of Projects which lists projects on surrounding public lands. This notification reaches approximately 3,200 interested people. Approximately 20 people responded. Responses were summarized in the EA (page 4) and reflected in the development and ultimately the selection of Alternative C.

Alternative B was the preferred alternative which was identified in the 30 day public review and comment period notice, published in The Bulletin, The Nugget, and The Oregonian and which ended on June 18, 1999. Comments from 13 individuals were received. A summary of the comments and a response can be found in Appendix B of the EA. A copy of this appendix will be provided when this document is mailed to the public.

Finding of No Significant Impact (FONSI)

I have determined that this decision does not constitute a major Federal action, individually or cumulatively, that would significantly affect the quality of the human environment in the locality, affected interests, affected region, or society as a whole; therefore, an Environmental Impact Statement will not be necessary. Based on the site-specific analysis documented in the EA, I expect only slight adverse, short duration impacts resulting from implementation from this alternative.

All impacts are slightly limited in scope and intensity and can be considered minor. This determination is based on the following factors:

(1) Beneficial and adverse direct, indirect, and cumulative environmental impacts discussed in the EA have been disclosed within the appropriate context and intensity. Adverse direct effects include a loss of unrestricted public access on the acquired parcel.

The direct effects of conveyance of the section 9 parcel are limited to the immediate area although indirect effects on growth would allow limited development on commercial lands within the Urban Growth Boundary which currently serve as drainfields for individual wastewater disposal systems. Implementation of this alternative is not expected to affect growth in other sectors of the community because City ordinances would restrict construction on most parcels within City residential areas. Although a sewage and wastewater facility would allow for some limited growth outside of the Urban Growth Boundary, new projects could apply for a permit and construct their own individual sewage and wastewater disposal systems if a community facility was not available.

Based on similar conditions in other communities, Alternative C will have a beneficial effect by lowering the risk of water quality degradation in Squaw Creek and its associated floodplain from cumulative use of individual septic systems. There will be beneficial indirect effects to wildlife that prey on insects and waterfowl, as well as an increase of habitat for many water-dependent species due to the new water source created by the irrigation plot, lagoons and holding ponds. Also, opportunities to view

wildlife would increase.

(2) No significant adverse effects to public health or safety have been identified (EA, Pages 15, 19-20). Impacts to the groundwater from the sewage and wastewater treatment operation would not be measurable due to the following factors:

- a. Plastic liners in the ponds and lagoons would protect groundwater from infiltration.
- b. A relatively deep static groundwater table.
- c. The application of effluent water to irrigate vegetation would occur at rates based on evapotranspiration and nitrogen uptake capabilities. No extra water would be applied which could have an effect on groundwater recharge.
- d. Rules and regulations administered by the EPA and DEQ have numerous stringent requirements imposing protection of the groundwater resource including leaching of nitrates and phosphates. Introduction of heavy metals, as well as other toxic chemicals into the wastewater system would be unlikely because the City does not contain businesses that discharge industrial strength wastes. The City of Sisters would be required to continuously demonstrate compliance through required plan submittals, permit processes, monitoring, and reporting.

Currently, presence of above-ground untreated sewage from individual subsurface systems has prompted the Oregon Department of Environmental Quality and the Director of Environmental Health for Deschutes County to label the situation as a "potential health hazard". The City is also in violation of the DEQ's Ground Water Protection Policy. Implementation of Alternative C would allow the City to remedy this situation.

(3) There will be no significant adverse impacts to unique characteristics of the geographic area such as cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or any other ecologically critical or sensitive areas (EA, page 22).

(4) The implementation of this decision and the resulting effects to the human environment are not expected to be highly controversial (EA, page 22).

(5) Based on numerous and similar sewage treatment operations around the State, the probable effects of this decision on the human environment, as described in the EA, are well known and do not involve unique or unknown risks (EA, pages 13-24).

(6) This action does not establish a precedent for future actions or represent a decision in principle about a future consideration with significant effects. The Forest Service has a desire to prioritize the 100 acre inholding as a priority for exchange with strong consideration given to the City's long-term community

needs if it is within the public interest (EA, page 23).

(7) This decision is made with consideration of past, present, and reasonably foreseeable future actions on National Forest land and other ownerships within potentially affected areas which could have a cumulatively significant effect on the quality of the human environment (EA, page 24). I find there to be no such cumulative significance.

(8) An intensive search for districts, sites, structures, objects, or other items listed or eligible for inclusion to the National Register of Historic Places in the potential area of effects has been completed. No listed or eligible resources were located. Consultation with the Oregon State Historic Preservation Office on these findings has been concluded with agreement of no National Register eligible resources being present (EA, page 22).

(9) The Biological Evaluation for the area indicates that the proposed project will have no significant adverse impacts on any Proposed, Endangered, Sensitive or Threatened plant or animal species (EA, pages 14 and 22).

(10) This decision is in compliance with relevant Federal, State, and local laws, regulations, and requirements designed for the protection of the environment (EA, page 22). The parcel is currently outside the City's Urban Growth Boundary. Once acquired, City and County zoning codes would apply. The Deschutes Comprehensive Land Use Plan (County Code F-2 Forest Use) outright allows ". . . utility facilities necessary for public service, except landfills or commercial facilities for the purpose of generating power for public use by sale." Reclaimed water (treated effluent) and biosolids management are administered by the US Environmental Protection Agency (EPA), under rule 40 CFR part 503, and the State DEQ, under Oregon Administration Rule 340. The State of Oregon and Deschutes County are responsible for permitting operation and maintenance of wastewater facilities and encourages the use of reclaimed waters for beneficial purposes. Rules and regulations by the DEQ have numerous stringent requirements, including monitoring, to ensure protection of the groundwater resource. Effects from this action will meet state water and air quality standards. If a Special Use Permit is issued before the transfer of the deed and the land remains in its current zoning status, consistency with state and county zoning guidelines would be requested.

Other Findings

National Forest Management Act - Alternative C is consistent with the goals, objectives, and direction contained in the Record Of Decision for the Deschutes LRMP including guidelines for land adjustments and accompanying Final Environmental Impact Statement dated August 27, 1990 as amended by the Regional Forester's Forest Plan Amendment #2 (Eastside Screens) and the Inland Native Fish Strategy.

Public lands within the Section 9 parcel have been identified within the 1990 Deschutes National Forest Lands and Resources Management Plan (LRMP), Lands Adjustment Plan, Group 3, Subgroup C as lands where . . . "Rearrangement of ownership will be permitted for the mutual benefit of owners."

Townsite Act as Modified by the Federal Land Policy and Management Act - National Forest System lands, needed by a community, may be sold under the Townsite Act, for fair market value if those lands would serve indigenous community objectives that outweigh the public objectives and values of retaining the lands in Federal ownership. Indigenous community objectives may include . . ."space for housing and service industries, expansion of existing economic enterprises, new industries utilizing local resources and skills, public schools, public health facilities, community parks, and other recreational areas for local citizens, but would exclude such uses as commercial enterprises or new industries that would change the character of the local community [Code of Federal Regulations 254.20 (b)]."

I find this land sale is consistent with all aspects of these Acts. The following requirements have been fulfilled:

- A complete tract examination including inspection, surveys and appropriate record search.
- Lands have been determined to meet essential community needs resulting from internal growth. The community objectives are greater than those served by retention in Federal ownership.
- Lands have been examined to determine whether mining claims, special land uses, cultural resources, Threatened or Endangered species, floodplains or wetlands are present. None of the above resources were found and no adverse effects have been determined.
- No other suitable private or other lands are available (EA, Appendix A).

Clean Water Act: Section 303 D - Alternative C is consistent with this Act. There would be no measurable impacts to Squaw Creek due to the location of the irrigation plots, lagoons and holding ponds which are well outside the 100 and 500 year floodplains. Also, the difference in elevation between the proposed site location and the floodprone area is approximately 30-50 feet. There would be no measurable affect to the water quality parameters for which the creek is listed (temperature regimes and flow).

This decision is subject to administrative appeal. Organizations or members of the general public may appeal this decision according to either Title 36 Code of Federal Regulations (CFR) Part 215 or Part 217. No decision can be appealed by the same person under both the 215 and 217 regulations. The appeal must be filed within 45 days of the date that legal notification of this decision is published in The Bulletin, the official paper of record. The notice must be filed with:

Regional Forester
Attn.: 1570 Appeals
USDA Forest Service
PO Box 3623
Portland, OR 97208-3623

It is the responsibility of those who appeal a decision to provide the Regional Forester sufficient written evidence and rationale to show why the decision by the Forest Supervisor should be changed or

reversed. The written notice of appeal must:

1. State the document is a Notice of Appeal filed pursuant to either 36 CFR part 215 or 217;
2. List the name, address, and if possible, the telephone number of the appellant;
3. Identify the decision document by title and subject, date of decision, and name and title of the Responsible Official;
4. Identify the specific change(s) in the decision that the appellant seeks or portion of the decision to which the appellant objects;
5. State how the Responsible Official's decision fails to consider comments previously provided, either before or during the comment period, and, if applicable, how the appellant believes the decision violates law, regulation, or policy.

For further information, contact Chris Mickle in the Bend-Fort Rock Ranger District, 1230 NE Third, Bend, Oregon, 97701, (phone 541 383-4721).

/s/ Rebecca Heath

REBECCA HEATH

Acting Forest Supervisor

July 26,
1999

Date

[Deschutes and Ochoco National Forests Website](http://www.fs.fed.us/centraloregon/manageinfo/nepa/documents/sisters/townsite/decision.html)

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R.A. Jensen