

**Decision Record
for the
Happy Hollow Modified Competitive Land Sale EA #OR-014-05-04**

INTRODUCTION

The Bureau of Land Management (BLM), Lakeview District, Klamath Falls Resource Area (KFRA) received a request from adjacent private landowners to purchase at fair market value 120 acres of isolated BLM-administered public land. The KFRA completed the Happy Hollow Modified Competitive Land Sale Environmental Assessment (EA) #OR-014-05-04 to analyze a proposal to sell by modified competitive sale the 120 acres legally described as follows: T. 38 S., R. 11 E., Sec. 17, NWNE; E1/2SE, Willamette Meridian, Klamath County, OR

DECISION

It is my decision to authorize the implementation of the proposed action as analyzed in the EA. Specifically, this decision will result in 120 acres of BLM-administered land, as described above, being offered for modified competitive sale to the highest bidder for the appraised fair market value of the property. The proponents of this action who made the original request will be allowed the option to exceed the highest bid. The sale will include the surface and mineral estates, except oil and gas and geothermal resources which are reserved to the United States. The sale will include the value of ponderosa pine timber that is present on the 120 acres, determined through a separate timber cruise and appraisal to be approximately fifty thousand board feet. If the proponents fail to purchase the land, the land will be made available to the highest bidder that offers to pay the fair market value of the public lands plus the value of the timber.

DECISION RATIONALE

Implementation of Alternative A, the proposed action, meets the purpose and need identified in the EA and would be consistent with objectives and potential impacts analyzed in the EA and the KFRA RMP. Alternative B, the no action alternative, is rejected because it does not meet the purpose and need for action identified in the EA.

Surveys

The project area has been surveyed for cultural resources and no historic or prehistoric cultural sites were found within the area proposed for sale. No noxious weeds, special status plant species, or special status terrestrial wildlife species are known to be located within the proposed sale area.

No Net Loss Policy

Within the 120 acre parcel proposed for sale, there are roughly five acres of Public Domain timber land that are within the timber harvest land base. The “No Net Loss” policy established by Section 3 of Public Law 105-321 (*Oregon Public Lands Transfer and Protection Act of 1998*) provides for balancing the amount of timber lands over a ten year period to achieve “No Net Loss of O&C, CBWR Land, or Public Domain Land” within the entire Western Oregon geographic area. To date, there has been a net increase of 50 acres of O&C land within western Oregon, thus the loss of these five timber producing acres would be in compliance with the “No Net Loss” policy.

Consultation and Coordination

There are currently no listed species or Designated Critical Habitat present and no federally listed species that would be affected from the proposed action. A “No Effect” determination has been made for all Federally Listed species for implementation of the proposed land sale.

Public Involvement

A legal notice was published in the Klamath Falls Herald and News newspaper on July 2, 2005, notifying the public of the possible land sale and soliciting their participation. Also, notification was mailed to adjacent landowners (including the proponents) as well as individuals and other local government offices who have expressed interest in the sale/disposal of public land. No comments were received in response to either the public notice or the letters to individuals. A notice of availability and 30-day comment period for the completed EA was published in the Klamath Falls Herald and News newspaper on March 7, 2008 and mailed to the individuals and agencies described above. No comments were received.

Finding of No Significant Impact

No significant impacts were identified. No impacts beyond those anticipated in the KFRA RMP Environmental Impact Statement (EIS) would occur. (Refer to the Finding of No Significant Impact for EA #OR-014-05-04.)

CONCLUSION

Based on the information in the EA and project record, I conclude that this Decision Record is consistent with the Klamath Falls Resource Area Record of Decision and Resource Management Plan (June 1995). This decision is consistent with the Endangered Species Act, The Native American Religious Freedom Act and cultural resource management laws and regulations. It is also consistent with Executive Order 12898 on Environmental Justice and will not have any adverse impacts to energy development, production, supply and/or distribution per Executive Order 13212.

ADMINISTRATIVE REMEDIES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1 (1999). If an appeal is taken, the notice of appeal must be filed in this office (at the address below) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

Manager, Klamath Falls Resource Area
Bureau of Land Management
2795 Anderson Ave, Building 25
Klamath Falls, OR 97603

To file a petition pursuant to regulation 43 CFR 4.21 or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that an appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. The person requesting a stay has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and,
- (4) Whether the public interest favors granting the stay.

/s/ Donald J. Holmstrom
Donald J. Holmstrom, Manager
Klamath Falls Resource Area

6/12/08
Date

FINAL FINDING OF NO SIGNIFICANT IMPACT (FONSI)
for the
Happy Hollow Modified Competitive Land Sale Environmental Assessment
EA #OR-014-05-04

In response to a written request from adjacent private land owners, the Bureau of Land Management (BLM), Lakeview District, Klamath Falls Resource Area (KFRA), has completed an Environmental Assessment (EA) to analyze a proposal to sell 120 acres of isolated BLM-administered land by modified competitive sale. The EA considered two alternatives:

Alternative A (Proposed Action) – Disposal of Public Lands by Sale

The proposed action is to sell 120 isolated acres of BLM-administered public land by modified competitive sale to the highest bidder for the appraised fair market value of the property. The proponents of this action, The Partnership, would be allowed the option to exceed highest bid. The sale would include the surface and mineral estates, except oil, gas and geothermal resources which would be reserved to the United States. The sale would also include the value of ponderosa pine timber that is present on the 120 acres as determined through a separate timber cruise and appraisal. If The Partnership fails to purchase the land, the land will be made available to the highest bidder that offers to pay the fair market value of the public lands.

Alternative B – No Action

Under the No Action Alternative, the subject 120 acres of public land administered by the BLM would be retained in public ownership.

A legal notice was published in the Klamath Falls Herald and News newspaper on July 2, 2005, notifying the public of the possible land sale and soliciting their participation. Also, notification was mailed to individuals, groups, and other agencies who have expressed interest in the sale of public land. Adjacent land owners of surrounding lands were notified. No comments were received in response to either the public notice or the letters to individuals.

The proposed action and alternatives were analyzed for significant effects as per the Council on Environmental Quality (CEQ) Regulations - 40 CFR § 1508.27. The following criteria listed under 40 CFR § 1508.27(b) were considered and found to be not applicable to this action: significant beneficial or adverse effects; significant effects on public health or safety; effects on the quality of the human environment that are likely to be highly controversial; anticipated cumulatively significant impacts; highly uncertain or unknown risks; and precedents for future actions with significant effects.

The following unique characteristics (Critical Elements of the Human Environment), listed in 40 CFR § 1508.27(b)(3), are not present and will not be affected: Areas of Critical Environmental Concern (ACECs); prime or unique farmlands; floodplains; wilderness; solid or hazardous waste; and Wild and Scenic Rivers.

In regard to 40 CFR § 1508.27 (b)(8), no adverse impacts are expected to cultural, scientific, or historical resources. The proposed area to be sold has been surveyed for cultural resources using BLM Class III survey methods. No historic or prehistoric cultural resources were identified within the area proposed for sale.

There will be no significant impacts to any special status species or habitat that has been determined to be critical under the Endangered Species Act [40 CFR § 1508.27 (b)(9)]. Surveys of the lands proposed for sale were conducted for Threatened and Endangered species and special status species. No Designated Critical Habitat or known sites of special status species occur within the project area.

As per 40 CFR § 1508.27(b)(10), this action conforms with all applicable Federal, State, and local laws and regulations.

The action is consistent with Executive Order 12898 which addresses Environmental Justice. No potential impacts to low-income or minority populations have been identified internally by the BLM or externally through public notification and involvement. Consultation with local tribal governments has not identified any unique or special resources providing religious, employment, subsistence or recreation opportunities.

Pursuant to Executive Order 13212, the BLM must consider effects of this decision on the National Energy Policy. There will be no known adverse effect on the National Energy Policy or on energy resources. Within the project area there are no known energy resources with commercial potential and energy producing or processing facilities (EA, page 10).

Within the 120 acre parcel proposed for sale, there are roughly five acres of Public Domain timber land that are within the timber harvest land base. The “No Net Loss” policy established by Section 3 of Public Law 105-321 (*Oregon Public Lands Transfer and Protection Act of 1998*) provides for balancing the amount of timber lands over a ten year period to achieve “No Net Loss of O&C, CBWR Land, or Public Domain Land” within the entire Western Oregon geographic area. To date, there has been a net increase of 50 acres of O&C land within western Oregon. The loss of these five timber producing acres would be in compliance with the “No Net Loss” policy and would have no impact to the KFRA Allowable Sale Quantity since the five acres in question are not in an area where timber harvest is scheduled. The value of the timber (approximately fifty thousand board feet) would be included in the appraised value of the 120 acres.

Based on the analysis of potential environmental impacts contained in the environmental assessment, it is my determination that neither alternative analyzed constitutes a significant impact affecting the quality of the human environment greater than those addressed in the following:

- Final - Klamath Falls Resource Area Management Plan and EIS (FEIS), 1994
- Klamath Falls Resource Area Record of Decision and Resource Management Plan and Rangeland Program Summary, 1995 (KFRA ROD/RMP)

I have determined that this action will not have any significant impact on the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, and an environmental impact statement is not required. I have further determined that the proposed action conforms to management direction from and will contribute to meeting the objectives of the Klamath Falls Resource Area Record of Decision and Resource Management Plan, as amended. Therefore, an Environmental Impact Statement, or a supplement to the existing RMP or Environmental Impact Statement, is not necessary and will not be prepared.

Signed: /s/ Donald J. Holmstrom
Donald J. Holmstrom, Manager
Klamath Falls Resource Area

Date: 6/12/08