

Environmental Assessment #OR-014-05-07
for
Nancy Charley Family Trust Direct Land Sale
OR 60795

I. INTRODUCTION

Purpose and Need

The purpose and need for the proposed action is to eliminate an unintentional land trespass discovered on the Klamath Falls Resource Area, Lakeview District, Bureau of Land Management (BLM). A barn and corral was built on BLM property in the 1940s-1950s and a shed was put on skids and moved to BLM property from Forest Service property in the 1970s. The BLM has been negotiating with the Nancy Charley Trust (the Trust). One current proposal is for the BLM to sell to the Trust the lands that are on the southern most portion of the BLM triangle and west of the road that exists on this parcel. The trespass area now has an accurate land survey completed on May 18, 2005. This survey has partitioned a small portion of land, segregating the encroachment (2.60 acres) from the remaining 31.07 acre parcel of BLM land. The affected public lands are described as following:

T. 38 S., R.05 E., Sec. 13, Government lot 9, Willamette Meridian, Klamath County, Oregon.
See attached map (Figure 1).

The purpose of this environmental assessment is to identify, analyze, and reduce, where possible, any potential impacts associated with the elimination of this trespass.

Conformance with Existing Land Use Plan and Applicable Laws

Sale of these 2.60 acres of public land conforms to the Klamath Falls Resource Area Record of Decision and Resource Management Plan (RMP) – as approved June 2, 1995 and amended in May 1999. The subject land was originally identified for retention in public ownership (Zone 1) in Appendix I of the RMP. In 1998, the RMP was amended as stated, “*Where survey hiatuses and unintentional encroachments on public lands are discovered in the future that meet disposal criteria, the lands may be automatically assigned to Zone 3 for disposal.*” The Amendment to the RMP changed encroachments and survey hiatus discoveries to Zone 3, therefore making these parcels available for disposal by sale or exchange. The amendment states; “*The Plan Amendment would also amend the RMP to place lands resulting from survey hiatuses and unintentional encroachments on public land, which are discovered in the future, into Land Tenure Zone 3. Any future disposal actions would be required to meet the RMP criteria. Lands affected by this amendment may be retained if the consultations, clearances, reports, or Environmental Assessment show any resource values worthy of permanent Federal retention.*” In this case, the subject land meets the criteria outlined in the amendment.

These lands are part of a large acreage in western Oregon that were revested back to the government and are managed under the requirements of the Oregon and California Lands Act of 1937 (O&C Act, Public Law 75-405. Section 3 of Public Law 105-321 (*Oregon Public Lands Transfer and Protection Act of 1998*) established a “No Net Loss” policy for O&C lands under BLM management in western Oregon.

Public Involvement

A legal notice was published in the Klamath Falls Herald and News newspaper on July 13, 2005, notifying the public of the possible land sale and soliciting their participation. No comments were received in response to the public notice.

II. PROPOSED ACTION AND ALTERNATIVES

There are four alternatives as follows:

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

The proposed action is to sell 2.60 acres of BLM-administered public land by direct sale to the Trust for the appraised fair market value of the property. The sale would include the surface and mineral estates, except oil and gas and geothermal resources which would be reserved to the United States. The sale would also include the value of ponderosa pine and white fir timber that is present on the 2.60 acres as determined through a separate timber cruise and appraisal.

Alternative B - Lease the Public Land

Under this alternative, the subject 2.60 acres of public land would be retained in public ownership. The Trust would be issued a land use lease pursuant to 43 CFR 2920. The public land would be leased at fair market value, as determined by appraisal. It is assumed that most existing uses would continue and resulting effects would be very similar to the proposed action. However, the lease would contain stipulations to offer resource protection. Fencing would be required to limit livestock use of the riparian area and allow for vegetative recovery.

Alternative C – Removal of Structures and Land Restoration

Under this alternative, the subject 2.60 acres of public land would be retained in public ownership. The Charley Trust would cease use of the lands, remove existing buildings and other structures, and take actions as necessary to re-establish native vegetation (i.e., ripping compacted soil and planting).

Riparian restoration would include measures to protect stream banks from erosion due to past livestock damage and the reestablishment of an appropriate plant community suitable for the natural potential of the riparian area. Because it would be expected that intensive livestock use would continue in areas adjacent to the BLM parcel, fencing would be required to limit livestock use of the riparian area and allow for vegetative recovery. This alternative would include planting of native shrubs, riparian trees, and seeding of forbs. Additional measures such as bank contouring and bio-engineered stabilization techniques may be required to stabilize stream banks. If this alternative is selected, a detailed site evaluation and restoration work plan would need to be developed prior to implementing restoration work.

Alternative D – No Action

Under this alternative, the status quo would be continued. No action would be taken to resolve the trespass. BLM is required, per 43 CFR 2711.3-3(5), to resolve inadvertent unauthorized use on BLM lands and thus this alternative is presented for analysis purposes only. The other listed alternatives are viable options for resolution of unintentional trespass.

III. AFFECTED ENVIRONMENT

The 2.60 acres of BLM-administered lands are located approximately ¼ mile from the Clover Creek Road on BLM road #38-5E-12. The property consists of an isolated parcel containing 2.60 acres that is adjacent to the Charley Trust property. The property has a barn, corral and shed located on it. The public does not have road access to this portion of BLM lands.

Geology and Minerals

The proposed sale lands are situated within the southern end of the High Cascade physiographic province very near its eastern boundary with the Basin and Range physiographic province. The regional structure consists of east sloping, uneven ranges and ridges, 4000-5000 feet above sea level, containing dark colored ridge-capping basalt flow rock and lighter colored basaltic andesite rock (explosive volcanic deposits and debris) that may cover much older sedimentary rocks. There are also small areas of volcanic-derived sedimentary rocks.

There are occasional boulders at the surface, but generally the parcel contains a shallow soil cover up to 36-inches. It is inferred from the minor exposures on the parcel and from published geologic mapping that the basalt and basaltic andesite continue at depth, but without extensive drilling and testing, its potential as a rock source is not known. In any case, it is not considered feasible or desirable to open a rock source at depth in the vicinity of this parcel. Therefore, the potential for the occurrence of aggregate or quarry rock is considered to be moderate to high but is not economically desirable. The likelihood for development is very low. No evidence of any other economic mineralization was observed or is reported in the literature.

In regard to geothermal and oil and gas resources, the entire east slope of the Cascade Range and portions of the Klamath Basin, and the subject parcel have been rated prospectively valuable for geothermal resources by the Bureau of Land Management mineral resource assessments produced in 1980 because of the high rate of crustal extension and higher-than-normal heat flow in the region. Because of the thickness of the volcanic rocks and higher-than-normal heat flow in the area, the area at Buck Lake is not considered prospectively valuable for oil or gas resources.

The policy of the Bureau of Land Management is to retain the mineral rights for prospectively valuable mineral resources, in this case geothermal resources.

Soils

The proposed land sale area is made up of Oatman cobbly loam 12 to 35 percent south slopes and Oatman cobbly loam depressional, 0 to 12 percent slopes. Both are deep, well drained soils that receive an average of 30 to 40 inches of precipitation annually and support conifers, with an understory of shrubs, forbs and grass. Oatman cobbly loam, depressional 0 to 12 has moderate permeability, runoff is slow and hazard of water erosion is slight. The mean average temperature is 40 to 44 degrees F and the average frost free period is less than 100 days. This soil supports white fir, lodgepole pine, ponderosa pine, western white pine and Douglas fir. Soil is susceptible to compaction if heavy equipment or livestock are on soils when they are wet. Frost can damage or kill seedlings since air drainage is restricted by this soil type and temperatures are often cold in the spring. The Oatman cobbly loam 12 to 35 percent slopes has similar characteristics but has steeper slopes, is suitable for white fir and Shasta Red Fir and can have high temperatures that lower seedling survival rates.

Hydrology

The proposed land sale is located in the Buck Lake 6th field sub-watershed in the Spencer Creek 5th field watershed on the southeastern portion of Buck Lake. Buck Lake contains a series of agricultural canals and diversions. Spencer Creek is a perennial stream, confined to a canal that flows along the East side of Buck Lake and is a tributary to the Klamath River. Spencer Creek watershed is approximately 54,160 acres, 56 % of which is in federal ownership (16% BLM-administered.) Spencer Creek watershed has been classified as a Tier One Key Watershed due to its potential for restoration as part of a watershed restoration program and its contribution directly to conservation of at-risk fish species (e.g., Salmonids) (KFRA RMP, page 8, 1995). The 2.60 acres proposed for sale accounts for 0.005 percent of the total watershed.

Field observations and GIS maps showed that the main stem of Spencer Creek meanders into and out of the proposed land sale boundaries (Figure 2). This section of Spencer Creek appeared to be recovering as a narrow channel with increased sinuosity forming within the incised wider channel. This section of stream supports a variety of riparian sedges, rushes, and grasses, such as species of *Carex* and *Juncus*. Stream substrate within this portion of Spencer Creek is gravel dominated (pea to tennis ball in size). Observed hoof postholes, short stubble heights, areas of bare ground, and erosion along the stream banks are evidence of heavy utilization by livestock within the proposed land sale.

The riparian reserve within the proposed land sale is dominated by agricultural land with upland grasses and exposed soil. Based on site observations (09/20/06) within the proposed land sale, there are no trees providing shade to the stream. However, the riparian reserve on the North side includes a small section of a second growth mixed conifer stand with interspersed large conifers, greater than 24 inches diameter at breast height. The riparian reserve within the land proposed for sale includes a barn, shed, and corral, all of which appeared to be in use during the site visit. The proposed land sale includes a native surface road within the riparian reserve.

Fisheries

Spencer Creek supports a variety of native aquatic species. Spencer Creek is an important fish bearing tributary of the Klamath River, providing the majority of spawning habitat for Klamath redband trout (*Onchorhynchus mykiss*) residing in Klamath River between Keno Dam and the California/Oregon state line. Spencer Creek also provides important rearing and migratory habitat for redband trout. Klamath smallscale suckers (*Catostomus rimiculus*) use Spencer Creek for spawning, rearing, and migratory habitat. Klamath largescale suckers (*Catostomus snyderi*) may use the lower portion of the Spencer Creek for spawning and rearing. Other resident native species including several species of lamprey (*Lampetra* sp), Klamath Speckled dace (*Rhinichthys osculus*), and marbled sculpin (*Cottus klamathaensis*) and Tui chub (*Gila bicolor*). Pacific giant salamanders (*Dicamptodon tenebrosus*) are known to reside in Spencer Creek. Spencer Creek is one of the eastern most streams occupied by this species. Pacific giant salamander largely exhibits the aquatic form, maintaining gills into adulthood.

Spencer Creek contains two life history forms of redband trout—a resident form and a migratory form. Adult migratory forms migrate from the Klamath River in March through April to spawn and migrate back to the Klamath River in May. Migratory forms attain sizes up to 20 inches. Juveniles of the migratory form generally rear in Spencer Creek for one year and migrate out to the Klamath River from March to July. Prior to dams blocking access in the early 20th century anadromous forms of trout (*Onchorhynchus mykiss*) migrated to Spencer Creek to spawn and rear (Hamilton et al 2004). Resident forms are smaller and generally attain lengths of 8 to 10 inches. These fish spend

their entire life cycle in Spencer Creek. Resident forms have been documented in Buck Lake and upstream of Buck Lake on Forest Service lands. It is unknown whether migratory forms routinely migrate as far upstream as Buck Lake. There is relatively steep cascade ¼ mile below Buck Lake that may be a partial barrier to upstream fish migration when streamflow is low.

The watershed assessment for Spencer Creek Watershed (USDI BLM 1995b) notes that the health of the aquatic ecosystem is impaired by changes in function due to management activities. Three changes in habitat condition were determined to be chronic and problematic for native fish species in Spencer Creek; fine sediments, high water temperature, and low flows. The causes of a downward trend in habitat condition for Spencer Creek were attributed to high numbers of road crossings, past streamside timber harvest, and channelization and grazing in Buck Lake.

The proposed land sale includes a portion of Spencer Creek at the lower end of Buck Lake pasture and an adjacent riparian zone. Due to channelization of the stream channel and intense grazing of the stream channel banks, the proposed land sale area is in poor condition and currently provides low quality fish habitat. Field observation on April 3, 2007 indicated that there is little or no shade from streamside vegetation which could exacerbate the stream temperature problem. The channel substrate although dominated by gravel in the proposed land sale area, is highly embedded with fine sediment. This condition diminishes the quality of the habitat for spawning and food production. There is the potential for fine sediment runoff from bare soil areas (including a corral in the sale area) adjacent to the stream. The condition of the stream channel in this area likely contributes to sediment and temperature problems in Spencer Creek.

Vegetation

The potential upland vegetation community for this site and surrounding area is described as White Fir-Shasta and White Fir-White Pine forest (USDA Jackson County Soil Survey August 1993). The dominant tree species is white fir. Shasta red fir, white pine, ponderosa pine, Douglas-fir, lodgepole pine and remnant aspen are also found in the overstory. Understory species include gooseberry, prince's pine, pachystima, small false Solomon's seal, and sedges and bromes. Current vegetation consists of an overstory of white fir, ponderosa pine and old aspen.

Timber

A little more than one acre of the 2.60 acres being considered for sale is actually forested at this time. In June of 2007 the proposed land sale area was visited and the timber cruised. A total of 54 merchantable trees (27 ponderosa pines, 3 lodgepole pines and 24 white firs) were cruised ranging from 8 to 56 inches diameter at breast height (DBH). The 54 trees have a net timber volume of approximately 40.2 thousand board feet (MBF).

Although the entire 2.60 acres are managed under the requirements of the *O&C Act* and would be subject to the "No Net Loss" requirements of Section 3 of the *Oregon Public Lands Transfer and Protection Act of 1998* (PL 105-321), the entire 2.60-acre parcel is also designated as Riparian Reserve and is not included as part of the harvest land base upon which Allowable Sale Quantity (ASQ) is calculated.

Noxious Weeds

Surveys were completed in 1995 and 2003 and no sites of noxious weeds targeted for control were found.

Threatened and Endangered/Special Status/Survey and Manage Species

There are no known Threatened and Endangered (T&E) plant or animal species or Designated Critical Habitat present within the proposed area. Current habitat conditions would not support any T&E species.

Botany

The proposed sale area contains no habitat for Survey and Manage (S&M) vascular or nonvascular plant species and complies with the Survey and Manage 2001 Record of Decision (ROD) and 2003 Annual Species Review (ASR). Surveys for special status plants were completed in 1995 and 2003. Three populations of green flowered ginger (*Asarum wagneri*), a Bureau sensitive species, were found during the most recent survey on BLM within this section. None of these populations were within the parcel proposed for sale. The proposed sale also complies with the 2007 Final Supplement to the 2004 FSEIS to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines.

Wildlife

The proposed area has been managed for the past 50+ years as part of the adjoining cattle ranch and the current habitat quality within the proposed sale area is minimal for special status species. The area is basically a feed lot and cow pasture and there is no current suitable habitat for special status species.

Survey and Manage terrestrial and aquatic mollusks surveys were done on the adjacent BLM land in June and October of 2001 according to Terrestrial Mollusk Survey Protocol Version 2.0 in preparation for a timber sale. No Survey and Manage mollusks were found. A field review of the proposed area was conducted to assess potential habitat for special status species. No priority habitat for terrestrial or aquatic mollusks is located within the proposed area. Therefore, no surveys for terrestrial mollusks are required for this action. As part of this proposed sale, aquatic mollusk surveys were conducted in 2007 within that portion of Spencer Creek that falls within the analysis area. No Survey and Manage aquatic mollusks were found. The area directly adjacent to the stream is non-forested and the current vegetation along the stream would not likely support any S&M mollusks. Great gray owl surveys were conducted on the adjacent forest stands in 2006 and 2007 in preparation for a future timber sale. No great gray owls were located during that survey. Attached is a Survey and Manage compliance table that summarizes the species, habitat and surveys required for survey and manage species (Appendix A).

Hazardous Materials

A site visit was conducted in September of 2005 to prepare an environmental site assessment on the disposal of the property. No recognized environmental conditions were identified during the inspection. No indications of the improper disposal of hazardous wastes were observed during the site visit.

The site has been used by the potential purchaser since the 1940's. The probability of hazardous materials disposal on the property is almost certain due to the length of time it has been used. The quantity of material if it is present is believed to be small, consisting of spilled fuel, oils, and insecticides used for the protection of cattle from insect pests.

Fuels

A natural fire regime is a general classification of the role fire would play across a landscape in the absence of modern human mechanical intervention and domestic livestock, but including the

influence of aboriginal burning. This property is in Fire Regime I, meaning that under a natural fire regime it would experience low severity fire with a mean fire return interval <35 years. The Condition Class is based on a relative measure describing the degree of departure from the historical natural fire regime. It is currently in Condition Class III, meaning that it has high departure from the natural (historical) regime of vegetation characteristics; fuel composition; fire frequency, severity and pattern. This departure is a reflection of the current species composition and stand structure. The property is not in the Wildland Urban Interface as defined in the Healthy Forest Restoration Act.

Air Quality

The area is designated as a Class II airshed.

Livestock Grazing

The proposed sale lands are located within - and a part of - the Buck Lake Allotment (#0104) which has a total of 11,971 acres of public/O&C lands. There are two grazing lessees on this allotment, including Hugh Charley (a member of "The Trust") whose family has historically grazed the proposed sale lands for many decades and continues to today. The BLM grazing lease for Mr. Charley is for 50 head from June 15th to September 15th each year. (There is also an exchange of use authorized for another 48 head based on the intermingled privately owned lands in the Buck Lake allotment.)

Cultural Resources

Prehistorically (pre-1846), the project area lay within no distinct tribal territory. The area was used by the Takelma, Klamath, and Modoc tribes. Activity was limited to seasonal hunting and gathering. Permanent occupation sites, such as villages, were established at lower elevations. Later, in 1864, the area fell within the territory ceded to the United States by the Klamath Tribes. The Klamath Tribes consist of the Klamath, Modoc, and Yahooskin people. Although treaty rights are no longer federally recognized in the project area, the Klamath Tribes remain concerned about potential disturbance to cultural sites in the area.

Historically (post-1846), after the establishment of the Applegate Trail, the project area was used for cattle ranching and logging. O.J. Brown was the first to start a cattle ranch in the 1860s near the mouth of Spencer Creek. Logging began in the 1860s with a few small enterprising sawmills. The industry boomed in the early twentieth century both in and around the project area after the introduction of railroads nearby. Weyerhaeuser arrived in 1923 and began constructing logging roads. Today logging and ranching continue to be significant in the area.

Ed Vanderhelen bought land around Buck Lake in 1939 – 1940 to raise muskrats in Buck Lake. According to Hugh Charley (Ed Vanderhelen's grandson) a barn was built by his grandfather in the early 1940s. The muskrat business was short-lived and the lake was drained by Mr. Vanderhelen to accommodate livestock grazing in the mid-to-late 1940s. The barn and corrals (built after the late 1940s) were built adjacent to the former shoreline of Buck Lake. These structures were inadvertently placed on BLM property. An additional structure (a 2-story house/shed) was put on skids and moved from Forest Service property to BLM property (by mistake) in the 1970s.

Additional information about cultural resources in the analysis area may be found in various overviews of the history and prehistory of the region (Beckham 2005, Follansbee and Pollack 1978, Mack 1991, and Spier 1930).

Land Status

The resource area has a land tenure adjustments program outlined in the Klamath Falls Resource Area Resource Management Plan. Since completion of the RMP, 2,690 acres have been sold. This land was sold to offset losses to Klamath County's tax base that resulted from the 3,200 acre Wood River Wetland acquisition.

IV. ENVIRONMENTAL IMPACTS

Based on scoping of the project, only a few resources are potentially affected to the point that the interdisciplinary team deemed it necessary to fully analyze effects in the following discussions. Tables 1 & 2 provide summaries of these discussions plus include information about other resource impacts.

Alternative A - Proposed Action

Positive or negative impacts could occur with any disposal of public land because the BLM would no longer have authority to control management of the lands and resources after the title passes into private ownership. Land and resource management on disposed lands would be at the discretion of the new owner, subject to reserved Federal interests, State laws, regulations, local zoning, and land use ordinances. For analysis purposes, it is reasonable to assume that the public land would be used as it has in the past.

Geology and Minerals

The present use of the 2.60 acres is expected to continue. The only possible economically valuable mineral resource is geothermal heat. Because of the small size of the proposed sale parcel, any possible future geothermal exploration or development would likely occur off-site by angle drilling. Therefore no impacts are expected, positive or negative, to mineral or energy resources.

Soils

There are no changes expected on the 2.60 acres if it is in private ownership. Therefore, there will be no impacts to soils as a result of the land sale.

Hydrology

Due to an unintentional land trespass in the 1940s, the land has been managed since then for agricultural use. For the purpose of this analysis, it is reasonable to assume that if the proposed sale of land to the Nancy Charley Trust occurs, current land utilization will continue and the land will remain unchanged. The section of Spencer Creek that flows through the proposed land sale (which has been impacted by the current and past utilization) will continue to be impacted, and the stream will remain in its current condition.

Fisheries

Current land management practices are expected to remain unchanged therefore any impacts on stream habitat would continue. Current conditions in the proposed land sale include unstable stream banks, lack of riparian vegetation, gravel embedded substrate and incised stream channel, all of which contribute to poor water quality and fish habitat. Unstable banks can potentially increase sediment load, lack of riparian vegetation creates lack of shade which increases stream temperature, embedded substrate reduces potential spawning habitat for Salmonids, and incised channels do not allow streams to access flood planes. These conditions are due to past and present agriculture use, it is reasonable to assume that agricultural utilization will continue if the proposed land sale occurs.

Vegetation

The present use of the 2.60 acres is expected to continue. There should be no impact to the existing vegetation.

Timber

The proposed action would result in a 2.60-acre reduction of the total acres of O&C land in the Klamath Falls Resource Area, however, the “No Net Loss” policy established by Section 3 of the *Oregon Public Lands Transfer and Protection Act of 1998* applies to western Oregon as a whole. To date, there has been a net increase of 50 acres of O&C land within western Oregon, so the sale of 2.60 acres would be in compliance with the “No Net Loss” policy. The entire parcel is within a generally reserved land allocation (Riparian Reserve) designation and is not considered as part of the “lands available for timber harvest” or included as part of the harvest land base upon which Allowable Sale Quantity (ASQ) is calculated. If the land passes to private ownership, it is possible that the timber could be harvested. The value of the timber resource will be evaluated as part of the assessed value. There would be no measurable impact to local timber supplies.

Noxious Weeds

The present use of the 2.60 acres is expected to continue, and the potential for noxious weed introduction, establishment and spread would not change as a result of the land sale.

Special Status Species

Botany

The present use of the 2.60 acres is expected to continue. No special status species have been documented on the land proposed for sale. There should be no impact, positive or negative to special status plants from implementation of this alternative.

Wildlife

No special status species have been documented on the land proposed for sale. This parcel has been managed for the past 50+ years as part of the adjoining ranching operation and it is anticipated that the current management would continue for the foreseeable future. Positive or negative impacts could occur with any disposal of public land because the BLM would no longer have authority to control management of the lands and resources after the title passes into private ownership. For special status species it is anticipated that the current management would continue and the habitat would remain in its current condition. The sale of this 2.60 acres would result in no net increase or decrease in available habitat for special status species.

Livestock Grazing

The present grazing use of the 2.60 acres is expected to continue, but would not be licensed by the BLM since it will be private land if the proposed action is implemented. Given the large size of the grazing allotment (11,971 acres) and small size of the proposed sale lands, no change in the grazing lease is expected, thus there will be no impact to the overall grazing use of the area.

Cultural Resources

The present use of the 2.60 acres is expected to continue. The proposed area to be sold has been surveyed for cultural resources using BLM Class III survey methods. One historic site (the barn and corrals) was documented, but this site was determined to be not eligible for the National Register. A cultural resources report (OR014-CRR-FY05-001) was sent to the Oregon State Historic Preservation Office (SHPO). On January 7, 2005, SHPO reviewed the report and concurred with the BLM’s finding that the barn and corral did not meet eligibility requirements for the National

Register of Historic Places in accordance with 36 CFR Part 60.4. Thus, no adverse effects to cultural resources are anticipated as a result of this alternative.

Fuels/Air Quality

The present use of the property is expected to continue. There should be no measurable impact to fuel conditions or air quality.

Land Status

There are a total of three land sale projects being analyzed by the resource area, these approximate 3 acres, the Stukel project for 120 acres and the Happy Hollow project for 120 acres. If all three of these sales were authorized then an additional 243 acres of public lands would be sold. This would bring the cumulative total of land sales for the Klamath Falls Resource Area to 2,933 since 1995.

Alternative B: Lease the Public Land

Impacts of this alternative are expected to be similar to those described for Alternative A, because the use of the lands in question is expected to remain unchanged. Under this alternative, the subject 2.60 acres of public land would be retained in public ownership. The Trust would be issued a land use lease pursuant to 43 CFR 2920. The public land would be leased at fair market value, as determined by appraisal. The lands described would remain the same, but The Trust would be paying a minimal rental fee to the BLM for the land they are using.

Geology and Minerals

The present use of the 2.60 acres is expected to continue if the property was leased. The only possible economically valuable mineral resource is geothermal heat. Because of the small size of the proposed sale parcel, any possible future geothermal exploration or development would likely occur off-site by angle drilling. Therefore no impacts are expected, positive or negative, to mineral or energy resources under the leasing alternative.

Soils

There are no changes expected on the 2.60 acres if it is in private ownership. Therefore, there will be no impacts to soils as a result of leasing the land.

Hydrology

Due to an unintentional land trespass in the 1940's, the land has been managed since that time for agricultural use. For the purpose of this analysis, it is reasonable to assume that if the parcel of land in question is leased to the Nancy Charley Trust, current land utilization will continue and the land will remain unchanged. The section of Spencer Creek that flows through the proposed land sale area (which has been impacted by the current and past utilization) will continue to be impacted, and the stream will remain in its current condition. Although a lease could include stipulations to improve stream conditions (fencing, etc.), the portion of stream that would be affected is so small that overall effects would be negligible.

Fisheries

Current land management practices are expected to remain unchanged. Therefore, any impacts on stream habitat would continue. Current conditions in the proposed land sale include unstable stream banks, lack of riparian vegetation, gravel embedded substrate and incised stream channel, all of which contribute to poor water quality and fish habitat. Unstable banks can potentially increase sediment load, lack of riparian vegetation creates lack of shade which increases stream temperature,

embedded substrate reduces potential spawning habitat for Salmonids, and incised channels do not allow streams to access flood planes. These conditions are due to past and present agriculture use, it is reasonable to assume that agricultural utilization will continue if the proposed lease occurs. A lease would allow for the BLM to include conditions to improve stream habitat (bank stabilization, planting stream side vegetation etc.). Due to the length of stream that flows through the proposed land sale (figure 2) compared to the overall length of Spencer Creek, the positive effects of stream improvements would be negligible. However, retaining BLM ownership through lease agreement could potentially increase the ability for the BLM to work with the land owner to improve the lands surrounding the proposed land sale.

Vegetation

The present use of the 2.60 acres is expected to continue. There should be no impacts to the existing vegetation.

Timber

The entire 2.60 acre parcel would be kept in federal ownership and there would be no reduction in O&C land and no effect on the “No Net Loss” policy established by Section 3 of the *Oregon Public Lands Transfer and Protection Act of 1998*. Under federal management, the timber is unlikely to be harvested due to its designation as riparian reserve. There would be no impact to local timber supplies.

Noxious Weeds

The present use of the 2.60 acres is expected to continue, and the potential for noxious weed introduction, establishment and spread would not change as a result of leasing the land.

Special Status Species

Botany

The present use of the 2.60 acres is expected to continue. There should be no impact, positive or negative to special status plants from implementation of this alternative.

Wildlife

No special status species have been documented on the proposed land. Under this alternative the lands would still be managed as part of the ranching operation although the BLM would still maintain ownership and provide terms for the lease including riparian fencing and resource protection. For special status species it is anticipated that this riparian fencing and resource protection would be beneficial to stream and riparian restoration and therefore have the potential to benefit those species associated with riparian habitat.

Fuels and Air Quality

The present use of the property is expected to continue. There should be no measurable impact.

Livestock Grazing

There will be no impact to the overall grazing use of the area.

Cultural Resources

No adverse effects to cultural resources are anticipated as a result of this alternative.

Land Status

There would be no change to land status.

Alternative C: Removal of Structures

Under this alternative the public lands would remain in public ownership and the above impacts would not occur. BLM would require reclamation of the parcels, by the Nancy Charley Trust.

Geology and Minerals

The present use of the 2.60 acres is expected to continue. The only possible economically valuable mineral resource is geothermal heat. Any possible future geothermal exploration or development would not be affected.

Soils

The Charley Trust would cease use of the lands, remove existing buildings and other structures, and take actions as necessary to restore the site (ripping compacted soil and planting to re-establish native vegetation). Riparian restoration would include measures to protect stream banks from erosion due to past livestock damage and the reestablishment of an appropriate plant community suitable for the natural potential of the riparian area. Because it would be expected that intensive livestock use would continue in areas adjacent to the BLM parcel, fencing would be required to limit livestock use of the riparian area and allow for vegetative recovery. This alternative would include planting of native shrubs, riparian trees, and seeding of forbs. Additional measures such as bank contouring and bio-engineered stabilization techniques may be required to stabilize stream banks. All these actions would result in an improvement in soils conditions.

Hydrology

Under this alternative the Nancy Charley Trust would be required to move all existing structures and restore the land within the proposed land sale. The structures within the proposed land sale are in close proximity to the portion of Spencer Creek that flows through the proposed land sale. Depending on the amount and type of restoration implemented, there could be short and long term positive and negative impacts. For example, removing the structures could cause a short term negative effect if there are fine sediment inputs to the stream channel. If livestock access is limited or excluded from the stream channel, the short and long term effects could be positive by restoring riparian vegetation and improving bank stability. Since the land proposed for sale is such a low percentage (0.005) of the watershed, the short and long term effects, negative or positive, would not be evident on a watershed scale.

Fisheries

This alternative would allow for stream habitat restoration through bank stability, reestablishing riparian vegetation, and fencing (limiting the negative effects of livestock). The impact to fisheries would be positive yet nominal due to the length of stream that flows through the proposed land sale (figure 2).

Vegetation

If the trust were required to reclaim the lands, the present forested area, less than one acre of the 2.60 acres, would likely expand over time to include areas vacated by the barn and corral structures.

Timber

The entire 2.60 acre parcel would be kept in federal ownership and there would be no reduction in O&C land and no effect on the “No Net Loss” policy established by Section 3 of the *Oregon Public Lands Transfer and Protection Act of 1998*. Under federal management, the timber is unlikely to be

harvested due to its designation as riparian reserve. There would be no impact to local timber supplies.

Noxious Weeds

Actions taken to restore the site and re-establish native vegetation would in the long term decrease the potential for noxious weed introduction, establishment, and spread.

Special Status Species

Botany

The proposed sale area contains no habitat for or populations of Survey and Manage or Bureau sensitive species. There should be no impact, positive or negative to special status plants from implementation of this alternative.

Wildlife

No special status species have been documented on the proposed land. Under this alternative the BLM would still maintain ownership and the Charley Trust would be required to reduce impacts by removing structures, and restoring the land. This would include upland, riparian and stream habitat restoration. This could have some benefit to special status wildlife especially in the vicinity of the stream and riparian habitat. However overall it is a minimal amount of land and the overall impact may be negligible for terrestrial wildlife based on the management upstream and downstream of the portion in question. For aquatic mollusks restoring this small segment will not likely have a measurable affect on aquatic mollusks or mollusk habitat since management of the stream directly upstream and downstream would not be changed.

Fuels and Air Quality

Removing the structures and associated activities from the property would reduce the risk of ignition and subsequent wildfire. However, this source of ignition is insignificant compared to other nearby sources, including: Clover Creek Road, recreational use, industrial use, and lightning.

There should be no measurable impact on air quality from this alternative.

Livestock Grazing

There will be no impact to the overall grazing use of the area.

Cultural Resources

No adverse effects to cultural resources are anticipated as a result of this alternative.

Land Status

There would be no change to land status.

Alternative D: No Action

This alternative is discussed for analysis purposes only as BLM is required to resolve inadvertent unauthorized use on BLM lands.

Geology and Minerals

The present use of the 2.60 acres is expected to continue. The only possible economically valuable mineral resource is geothermal heat. Because of the small size of the proposed sale parcel, any

possible future geothermal exploration or development would likely occur off-site by angle drilling. Therefore no impacts are expected, positive or negative, to mineral or energy resources.

Soils

The present use of the property is expected to continue; therefore impacts will be the same.

Hydrology

For the purpose of this analysis it is reasonable to assume that if no action is taken land utilization will continue and the land will remain unchanged. The impacts to the section of Spencer Creek that flows through the proposed land sale, along with the surrounding riparian reserve, will continue and the stream will remain in its current condition.

Fisheries

The current land management practices are expected to remain unaltered therefore past and present impacts on stream habitat would remain unchanged.

Vegetation

Under this alternative, there would be no change to the existing situation.

Timber

The current stand of trees would likely persist. No impacts to local timber supplies would be expected. The “No Net Loss” policy established by Section 3 of the *Oregon Public Lands Transfer and Protection Act of 1998* would not be affected.

Noxious Weeds

The present use of the 2.60 acres is expected to continue, and the potential for noxious weed introduction, establishment and spread would not change.

Special Status Species

Botany

The present use of the 2.60 acres is expected to continue. There should be no impact, positive or negative to special status plants.

Wildlife

No special status species have been documented on the proposed land. Under this alternative the lands would still be managed as part of the ranching operation although the BLM would still maintain ownership. For special status species it is anticipated that the current management would continue and the habitat would remain in its current condition. The lease of this 2.60 acres would result in no net increase or decrease in available habitat for special status species.

Fuels and Air Quality

The present use of the property is expected to continue. There should be no measurable impact.

Livestock Grazing

There will be no impact to the overall grazing use of the area.

Cultural Resources

No adverse effects to cultural resources are anticipated as a result of this alternative.

Land Status

There would be no change to land status.

V. CONSULTATION AND COORDINATION

<u>Preparers</u>	<u>Resource / Responsibility</u>
Don Hoffheins	Planner
Linda Younger	Realty/Writer
Bill Lindsey	Range
Scott Senter	Recreation
Steve Hayner	Wildlife
Shane Durant	Forestry
Lou Whiteaker	Botany
Tim Canaday	Cultural Resources
Molly Juillerat	Soils
Rebecca Lange	District Geologist
Tom Cottingham	Hazmat and Safety
Andy Hamilton	Fisheries Biologist
Liz Berger	Hydrology
James Ross	Hydrology
Eric Johnson	Fire / Air Quality

Agencies/Groups Contacted

Oregon Department of Fish and Wildlife
Oregon State Historic Preservation Officer
Oregon Natural Resources Council
The Klamath Tribes
Oregon Government Offices
U.S. Fish and Wildlife Service
Klamath County

Individual adjacent landowners were also contacted. However, this information is protected by the Privacy Act.

Consultation

A "No Effect" determination has been made for all Federally Listed species for the proposed actions. There are currently no listed species or Designated Critical Habitat present and no federally listed species would be affected from the proposed action.

Survey and Manage

On July 25, 2007, the Under Secretary of the Department of Interior signed a new Survey and Manage Record of Decision that removed the survey and manage requirements from all of the BLM resource management plans (RMPs) within the range of the northern spotted owl. This proposed land sale is consistent with the 2007 ROD. However, this project is also consistent with the 2001 Survey and Manage ROD.

Table 1 - Summary of Critical Elements and Impacts

Critical Element	Environmental Impact	Remarks
Air Quality	None	No change in use is anticipated; therefore no air quality impacts are expected.
Areas of Critical Environmental Concern (ACEC)	None	The lands proposed for sale are not within an existing or proposed ACEC
Prime or Unique Farmlands	None	No farm lands. Area has a barn and corral located on it.
Flood Plains	None	Area has been drained and was part of an old lake bed. Spencer Creek flows adjacent to the property into a drainage ditch.
Cultural Resources and Native American Religious Concerns	None	The barn and corral have been determined to be not eligible for the National Register (concurrence letter received from SHPO January 7, 2005).
Threatened or Endangered Species, Special Status Species	None Known	There are currently no listed species or Designated Critical Habitat present. The sale of this 2.6 acres would result in no net increase or decrease in available habitat for special status species.
Noxious Weeds		The present use of the 2.60 acres is expected to continue, and the potential for noxious weed introduction, establishment and spread would not change as a result of leasing the land.
Mineral Resources	None	There is little potential for Oil, Gas and Geothermal resources. Those Mineral resources will be reserved to the United States. All other mineral resources will be sold. Reference Mineral Report in the sale file.
Hazardous or Solid Wastes	None Known	The property is proposed for sale to the Nancy Charlie Trust. Since no recognized environmental conditions were observed on the property, any liability that accrues as a result of inadvertent disposal of small quantities of hazardous waste will reside with the Nancy Charlie Trust.
Water Quality	None	Since the land proposed for sale is such a low percentage (0.005) of the watershed, the short and long term effects, negative or positive, would not be evident on a watershed scale.
Wetland/Riparian Zones	None	The entire 2.6 acres are within designated Riparian Reserves, but vegetative characteristics are mainly upland in nature.
Wild and Scenic Rivers	None	Property is outside the Klamath River corridor, the only designated river segment within the Klamath Falls Resource Area.
Wilderness Areas	None	No wilderness areas are on or adjacent to this property.
Environmental Justice	None	No disproportionately high or adverse human health or environmental effects to low income or minority populations are expected to result from the proposed sale of the 2.60 acres of public land.

Table 2 - Summary of Other Resource Elements and Impacts

Resource	Environmental Impact	Remarks
Rangeland Resources	None	The proposed sale property is within the Buck Lake allotment (#0104) and comprises <0.03% of the allotment; thus, there would be no short or long term loss of livestock forage.
Vegetation	No change	Timber - The impact to local timber supplies would be minimal as the area is part of riparian reserves where normal timber sales are not conducted.
Fuels	Little change	The present use of the property is expected to continue in most alternatives and any changes should not have a significant impact.
Water Resources	None	No municipal watersheds are involved in the sale.
Wild Horse and Burro Management	None	The property proposed for sale is not within a Wild Horse and Burro Management Area.
Visual Resources	None	No Class I or Class II VRM issues. The property proposed for sale is inventoried as VRM Class III.
Recreation Resources	None	Minimal recreation potential exists on these 2.60 acres of land proposed for sale as the land is already being utilized.

REFERENCES CITED

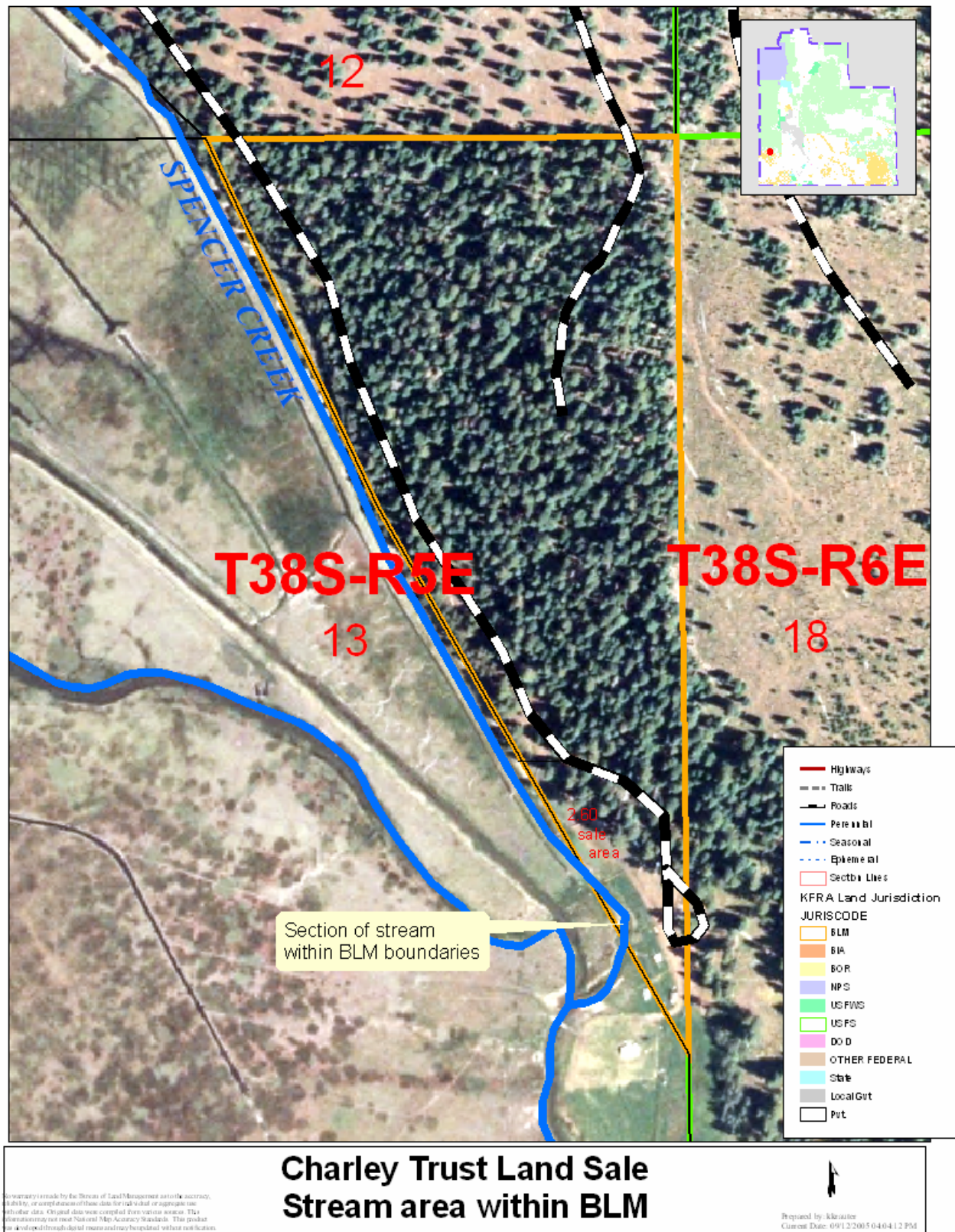
Beckham, Stephen Dow. 2005. Upper Klamath River Canyon of Oregon and California: Historical Landscape Study. On file at the Klamath Falls Resource Area, Bureau of Land Management.

Follansbee, Julia A. and Nancy L. Pollock. 1978. Prehistory and History of the Jackson-Klamath Planning Unit: A Cultural Resources Overview. On file at the Klamath Falls Resource Area, Bureau of Land Management.

Mack, Joanne M. 1991. Upper Klamath River Canyon Prehistory. In Klamath River Canyon Prehistory and Ethnology, edited by Richard C. Hanes, pp. 1 – 110. Bureau of Land Management, Cultural Resource Series No. 8.

Spier, Leslie. 1930. Klamath Ethnology. University of California Publications in American Archaeology and Ethnology, 30. Berkeley.

Figure 2 – Map Showing Section of Stream within Proposed Sale Area



**Charley Trust Land Sale
Stream area within BLM**

Accuracy is made by the Bureau of Land Management and to the accuracy, liability, or completeness of these data for individual or aggregate use without data. Original data were compiled from various sources. The information may not meet National Map Accuracy Standards. This product is available through digital means and may be updated without notification.

Prepared by: Kilauea
Current Date: 09/12/2005 04:04:12 PM

FINDING OF NO SIGNIFICANT IMPACT (FONSI)
for the
Nancy Charley Family Trust direct Land Sale Environmental Assessment
EA #OR-014-05-07

The Bureau of Land Management (BLM), Lakeview District, Klamath Falls Resource Area (KFRA), has completed an Environmental Assessment (EA) and analyzed alternative proposals to resolve an unintentional land trespass discovered on BLM lands. The unintentional land trespass consists of a barn and corral that were built on BLM property in the 1940s-1950s and a shed that was put on skids and moved to BLM property from Forest Service property in the 1970s. The EA considered four alternatives:

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

The proposed action is to sell 2.60 acres of BLM-administered public land by direct sale to The Trust for the appraised fair market value of the property as per 43 CFR 2711.3-3(5). The sale would include the surface and mineral estates, except oil and gas and geothermal resources which would be reserved to the United States. The sale would also include the value of ponderosa pine and white fir timber that is present on the 2.60 acres as determined through a separate timber cruise and appraisal.

Alternative B – Lease the Public Land

Under this alternative, the subject 2.60 acres of public land would be retained in public ownership. The Trust would be issued a land use lease pursuant to 43 CFR 2920. The public land would be leased at fair market value, as determined by appraisal. It is assumed that most existing uses would continue and resulting effects would be very similar to the proposed action. The lease would contain stipulations to offer resource protection.

Alternative C – Removal of Structures and Land Restoration

Under this alternative, the subject 2.60 acres of public land would be retained in public ownership. The Trust would cease use of the lands, remove existing buildings and other structures, and take actions as necessary to re-establish native vegetation (i.e., ripping compacted soil and planting).

Alternative D – No Action

Under this alternative, the status quo would be continued. No action would be taken to resolve the trespass. BLM is required to resolve inadvertent unauthorized use on BLM lands and thus this alternative was presented for analysis purposes only.

A legal notice was published in the Klamath Falls Herald and News newspaper on July 13, 2005, notifying the public of the possible land sale and soliciting their participation. No comments were received in response to the public notice.

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. One historic site (including the barn and corrals) was documented, but this site was determined to be not eligible for the National Register of Historic Places.

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 proposed treatment area 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).

The 2.60 acre parcel proposed for sale is part of a large acreage in western Oregon that was revested back to the government to be managed under the requirements of the Oregon and California Lands Act of 1937 (O&C Act, Public Law 75-405. Section 3 of Public Law 105-321 (*Oregon Public Lands Transfer and Protection Act of 1998*) established a “No Net Loss” policy for O&C lands under BLM management in western Oregon. The policy requires that changes in land ownership over a ten year period result in no loss of O&C land within western Oregon as a whole. To date, there has been a net increase of 50 acres of O&C land within western Oregon. The sale of 2.60 acres would not result in a net loss of O&C land. The entire parcel is within a generally reserved land allocation (Riparian Reserve) designation and is not considered as part of the “lands available for timber harvest” or included as part of the harvest land base upon which Allowable Sale Quantity (ASQ) is calculated.

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)
- Klamath Falls Resource Area Management Plan (RMP) Amendment on Unintentional Encroachments and Survey Hiatuses, 1998

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, Field Manager
Klamath Falls Resource Area

Date: 2/27/08