

Chapter 1

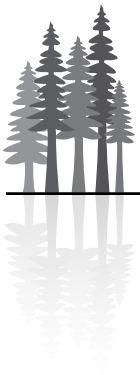
Purpose and Need



Chapter 1 describes the purpose and need for the action that is proposed and also identifies factors that will be used when choosing among the alternatives at the time of the decision. Additionally, this chapter describes the boundaries of the planning area, the planning process – including the collaborative effort BLM has made with many agencies and organizations that have an interest in BLM-administered lands in western Oregon – and the relationship of these revised resource management plans to other plans and programs.

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Introduction

The Bureau of Land Management (BLM) is revising the resource management plans (RMPs) for the Coos Bay District, Eugene District, Medford District, Roseburg District, Salem District, and the Klamath Falls Resource Area of the Lakeview District. The Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (O&C Act) is the statutory authority that provides primary direction to the BLM for managing most of the land it administers in western Oregon.

O&C Act

The lands managed by the O&C Act include the Oregon and California grant lands that were revested in 1916 and the Coos Bay Wagon Road lands that were reconveyed in 1919.

The current resource management plans for the Coos Bay District, Eugene District, Medford District, Roseburg District, Salem District, and the western portion of the Klamath Falls Resource Area of the Lakeview District are consistent with the 1994 Northwest Forest Plan, which was adopted by the Department of the Interior and the Department of Agriculture for federal forests within the range of the northern spotted owl as an “ecosystem management plan for managing habitat for late-successional and old-growth forest related species.” The proposed action is to revise the resource management plans with land use allocations and management direction that best meet the purpose and need.

The BLM is proposing to revise existing plans to replace the Northwest Forest Plan land use allocations and management direction because: (1) the BLM’s plan evaluations found that timber harvest levels have not been achieving the levels directed by existing plans, and the BLM now has more detailed and accurate information than was available in 1995 on the effects of sustained yield management on other resources, (2) there is an opportunity to coordinate the BLM resource management plans with new recovery plans and re-designations of critical habitat, and (3) the BLM has re-focused the goal for management of the BLM-administered lands to its statutory mandate of permanent forest production in conformance with the principles of sustained yield on the timber lands covered under the O&C Act.



Purpose and Need for the Plan Revisions

The goals for the Northwest Forest Plan were broader than the specific requirements of the Endangered Species Act, Clean Water Act, and other laws, and sought to provide more consistent management of federally managed lands by applying National Forest Management Act requirements to BLM-administered lands. The selected alternative for the Northwest Forest Plan was chosen because it would “maintain the late-successional and old-growth forest ecosystem and provide a predictable and sustainable supply of timber, recreational opportunities, and other resources at the highest level possible.” The purpose and need for this plan revision is focused on specific legal requirements and intended benefits of the BLM’s unique mandate under the O&C Act, distinct from the mandate to the U.S. Forest Service under the National Forest Management Act.

The purpose of this proposed action is to manage the BLM-administered lands for permanent forest production in conformity with the principles of sustained yield, consistent with the O&C Act.¹ The plans will also comply with all other applicable laws including, but not limited to, the Endangered Species Act, the Clean Water Act, and (to the extent that it is not in conflict with the O&C Act) the Federal Land Policy and Management Act (FLPMA). In accord with the Endangered Species Act, the plans will use the BLM’s authorities for managing the lands it administers in the planning area to conserve habitat needed on these lands for the survival and recovery of species listed as threatened or endangered under the Endangered Species Act.²

The Need for Revising the RMPs Now

Plan evaluations showed the BLM’s timber harvest levels, as directed by existing plans, were not being achieved. The BLM now has more detailed and accurate information on the effects of sustained yield timber management on other resources.

Resource management plan revisions are necessary where monitoring and evaluation findings, new data, new or revised policy, or changes in circumstances indicate decisions in a plan (an entire plan or a major portion of a plan) no longer serve as a useful guide for resource management (43 CFR 1610.5-6). Failure to meet some plan objectives, and the availability of new information that increases opportunities to improve performance of other plan objectives, necessitate revisions to resource management plans.

The BLM completed evaluations for the six western Oregon resource management plans in 2004 and found departures from objectives, management actions, and assumptions in the timber resources program. The BLM determined the annual productive capacity and declared an allowable sale quantity of 211 million board feet (mmbf) in the 1995 records of decision for the RMPs for western Oregon.³ Except for the Klamath Falls Resource Area of the Lakeview District, evaluations for the other five districts documented that regeneration harvest ranged between 30 and 60 percent of the levels anticipated by the date of the evaluations. Even when considering thinning volume, except for the Klamath Falls Resource Area of the Lakeview District, plan evaluations showed that the timber offered from the harvest land base was still only between 40 to 70 percent of the anticipated allowable sale quantity. This failure to meet the harvest levels is largely due to unanticipated legal and practical implementation issues involved in managing designated critical habitat for the northern spotted owl that was different from land use allocations in the Northwest Forest Plan, and court decisions regarding the survey and manage mitigation measure and the Aquatic Conservation Strategy.

¹The Ninth Circuit Court in *Headwaters v. BLM*, 914 F.2d 1174 (9th Cir. 1990) confirmed that in the O&C Act Congress mandated timber production as the dominant use of these BLM-administered lands.

²This revision process will satisfy a settlement agreement resolving long-standing litigation of the Northwest Forest Plan (*AFRC v. Clarke*, Civil No. 94-1031-TPJ [D.D.C.]) that alleged the current RMPs violate the O&C Act. The settlement agreement requires BLM to consider revisions to the RMPs by the end of the year 2008, and to include at least one alternative that “will provide permanent forest production across the O&C lands without reserves except as required to avoid jeopardy under the Endangered Species Act.” See *Appendix A. Legal Authorities* for more discussion.

³Currently, due to subsequent adjustments through plan amendments and maintenance, the declared allowable sale quantity for the BLM lands in western Oregon is 203 million board feet (mmbf).



Departures from expectations and assumptions of the RMPs regarding the ability of BLM to supply timber at a predictable and sustained level under the Northwest Forest Plan have created substantial uncertainty as to whether the objective under the O&C Act (managing O&C lands for permanent forest production) can be met in the short or long term. Even though the purpose of the O&C Act in providing a stable source of revenue to the county governments has been supplanted in recent years through temporary Congressional funding, the source of this revenue in the long term is uncertain. To the extent the BLM can provide a substantial stream of revenue to the counties through the revenue sharing provisions of the O&C Act, the ability of county governments dependent on these revenues to provide services will be improved. While the revenue-sharing provision of the O&C Act is primarily in support of the local governments, the expected benefits of sustained yield timber management under the O&C Act also include contributions to the local economies and industries, not just local governments.

These plan evaluations generally found that other resource programs were functioning as anticipated in achieving most goals, but identified potential for improvements. For example, the evaluations indicated opportunities to: update the off-highway vehicle designations for some districts to match new national policy, adjust existing grazing authorizations in some districts to reflect actual use, add a new policy (the National Fire Plan) for some districts, and address the latest science and more recent listings of threatened and endangered species for all of the districts. These items in themselves may not have justified a revision of the current resource management plans, but will be considered in their revision. In addition, this revision will also consider changes in management direction for all programs for clarity or ease of implementation.

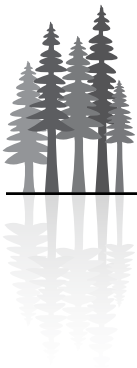
The BLM now has more detailed and accurate information on the effects of sustained yield timber management on other resources, because BLM has more data and improved analytical capabilities since the analysis for the existing plans. In 1994, the Northwest Forest Plan analysis used a geographical information database that was limited to a resolution of units of 40 acres in size. The current database has a resolution many times finer than this (10 square meters in resolution rather than 40 acres). Additionally, the hydrological map data, among others, was incomplete at that time and has since been completed and updated. Consequently, the BLM is now able to perform analysis on such resources as aquatic habitat in much finer detail with more precision using analytical models that were unavailable in 1993.

In part due to the limitations of the available information database, the 1995 RMPs erred on the side of caution regarding resources used by species considered rare, threatened, or endangered. That margin of error is no longer justified on the basis of the available information database. Making this adjustment in light of advances in the analytical ability, data, and knowledge of the resources is consistent with the principles of adaptive management articulated in the Northwest Forest Plan in 1994. See the *Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* (USDA USFS and USDI BLM 1994b, Volume I, p. 2-12). These principles were elaborated upon in the subsequent 1995 RMPs that constitute the current direction for management of BLM-administered lands in western Oregon that are the subject of this proposed plan revision.

There is an opportunity to coordinate the BLM's management plans with new recovery plans and re-designations of critical habitat currently under development.

Concurrent to this RMP revision, the National Marine Fisheries Service and U.S. Fish and Wildlife Service have been reviewing, revising or drafting recovery plans and critical habitat designations for some listed species in the planning area. This RMP revision will allow the BLM to coordinate its resource management plans with decisions on the recovery plans and designations or re-designations of critical habitat.

Late-successional reserves in the Northwest Forest Plan do not coincide completely with critical habitat that was designated for the northern spotted owl by the U.S. Fish and Wildlife Service in 1992. This resulted in an uncertainty for those lands allocated to the harvest land base that were overlain with the critical habitat designation, because the harvest land base was where timber harvesting to meet the declared allowable sale quantity was expected to occur.



Some U.S. Fish and Wildlife Service biological opinions on timber sales within critical habitat have been litigated and found invalid. In the *Gifford Pinchot Task Force* decision, the Ninth Circuit Court made it clear that effects to critical habitat must be considered, regardless of whether the Northwest Forest Plan would be expected to recover the species.⁴ As a result, the ability of the BLM to implement timber sales in the portions of the harvest land base that are within designated critical habitat is more limited than anticipated in the current resource management plans.

The existing management uncertainty resulting from differences between the designated critical habitat and the reserves established in the Northwest Forest Plan could be reduced by harmonizing the BLM resource management plans with designated critical habitat. The U.S. Fish and Wildlife Service has concurrently written a recovery plan and has proposed re-designation of critical habitat for the northern spotted owl. That agency has also proposed re-designation of critical habitat for the marbled murrelet to take into account more recent information on that species' use of habitat. Also, since adoption of the 1995 resource management plans, the National Marine Fisheries Service has listed a number of fish species and designated critical habitat. Thus, the BLM has an opportunity at this time to integrate the recovery plans of the U.S. Fish and Wildlife Service and National Marine Fisheries Service, and any designations or re-designations of critical habitat, into the revision of the BLM resource management plans.

The BLM has re-focused the goal for management of the BLM-administered lands to the statutory mandates specifically applicable to these lands.

The statutory requirements of the O&C Act, which governs most BLM-administered lands in western Oregon include, but are not limited to: managing the O&C lands for permanent forest production by selling, cutting, and removing timber in conformance with the principles of sustained yield; determining the annual productive capacity of the lands managed under the O&C Act; and offering for sale that determined capacity annually under normal market conditions. The statute states that the purpose of sustained yield management of these lands is to provide a permanent source of timber, contribute to the economic stability of local communities and industries, as well as to benefit watersheds, regulate stream flows, and provide recreational use. The BLM interprets this language of the O&C Act as explaining the rationale for sustained yield forest management, rather than enumerating additional objectives for management. The legislative history of the O&C Act and the Ninth Circuit Court ruling in *Headwaters v. BLM*, 914 F.2d 1174 (9th Cir. 1990) make it clear that management of these lands for sustained yield forest management is expected to result in "... a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities." It would be inconsistent with the O&C Act to treat these expected benefits as additional objectives that must be balanced against sustained yield forest management, and thereby might reduce the annual productive capacity that would be offered for sale.

Land Use Allocations
For details about the Northwest Forest Plan and its land use allocation designations, search for the phrase Northwest Forest Plan at http://www.blm.gov/search .

The statutory requirements of the O&C Act are limited by other statutes, including: providing for the need to conserve listed species and the habitat they depend on; not jeopardizing listed species and not adversely modifying critical habitat; and protecting the chemical, biological and physical properties of the water of the United States. As long as the requirements of these other statutes are met, increasing the level of timber production consistent with the principles of sustained yield would further the objectives set by Congress for managing these lands under the O&C Act.

⁴*Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir. 2004)



Selecting a Preferred Alternative

In selecting among the alternatives in this plan revision, the BLM will evaluate which alternative or combination of alternatives best meets the Purpose and Need. In addition, the BLM will consider the environmental consequences related to the issues identified below and the cost of implementation. The proposed resource management plan described in this final environmental impact statement represents the preferred alternative of the BLM.

Background

The following background summarizes the major resource plans and laws that affect management of the BLM-administered lands within the planning area.

Northwest Forest Plan

The management direction in the 1994 Northwest Forest Plan (NWFP) was designed to respond to the need for both forest habitat and forest products (see page 25 of the NWFP's Record of Decision, cited herein as USDA USFS and USDI BLM 1994c). In selecting Alternative 9 (which became the NWFP), the secretaries of the Interior and Agriculture stated that “[t]o balance these sometimes conflicting purposes and plan for management of ecosystems that cross the administrative boundaries ... we adopt the alternative that will both maintain the late-successional and old-growth forest ecosystem and provide a predictable and sustainable supply of timber” (USDA USFS and USDI BLM 1994c, p. 26).

Northwest Forest Plan

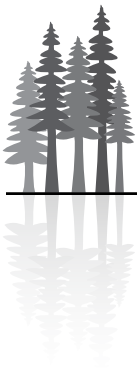
For documents relating to the Northwest Forest Plan, including the record of decision (ROD), visit <http://www.blm.gov/or/plans/nwfpnepa/index.htm> or <http://www.reo.gov/library>.

The decision to select Alternative 9 was an attempt to balance the two purposes of forest habitat and forest products. The balancing was primarily accomplished through land allocations between lands designated as reserved lands (congressionally reserved areas, administratively withdrawn, late-successional reserves, and riparian reserves) that were declared “incompatible with programmed, sustained timber harvest” (USDA USFS and USDI BLM 1994b, p. 3&4-263) and the lands not reserved for conservation purposes were left as “matrix” or “adaptive management areas” land allocations, on which programmed timber harvest could take place. These remaining unreserved lands constituted 23 percent of the BLM-administered lands. Timber harvesting on the matrix lands and in the adaptive management areas was restricted by the standards and guidelines that were designed to achieve conservation objectives on these lands (USDA USFS and USDI BLM 1994c, p. 1-2).

The conservation strategy of the Northwest Forest Plan addressed not only the Endangered Species Act, but also the National Forest Management Act of 1976 (NFMA) and its requirement that the U.S. Forest Service “provide for diversity of plant and animal communities ... to meet overall multiple-use objectives” (16 U.S.C. §1604). The Northwest Forest Plan applied the same criteria for management of habitat on both U.S. Forest Service and BLM-administered lands, even though the NFMA does not apply to the BLM-administered lands. The discussion regarding the legal and regulatory compliance of Alternative 9 (as it relates to the National Forest Management Act) in the 1994 record of decision for the Northwest Forest Plan states that:

National Forest Management Act (NFMA)

The National Forest Management Act of 1976 amended the Forest and Rangeland Renewable Resources Planning Act of 1974 to reorganize and expand the 1974 act. For the complete act and its regulations, search for Title 16 and all sections starting with Section 1600 at <http://uscode.house.gov>.



“Although NFMA regulations apply to lands administered by the Forest Service, the fish and wildlife regulation was used as a criterion in the development of the alternative we select today, which includes direction for management of BLM lands. Use of the regulation’s goals in developing alternatives applicable to BLM lands serves the important policy goal of protecting the long-term health and sustainability of all of the federal forests within the range of the owl and the species that inhabit them.”
(USDA USFS and USDI BLM 1994c, p. 44)

Major Laws Affecting Management of BLM-Administered Lands in the Planning Area

This section discusses how the various laws affect management of the BLM-administered lands in the planning area. In addition to the laws presented here, many other legal authorities affect management of BLM-administered lands. For those, see *Appendix A – Legal Authorities*.

Most BLM-administered lands in the planning area are managed primarily under the O&C Act and are commonly referred to as the O&C lands. The O&C Act has been the statutory authority for management of the O&C lands since 1937. Subsequent laws affect management of the O&C lands to varying degrees. Laws, such as the Endangered Species Act and Clean Water Act, are directly applicable to how the BLM exercises its statutory authorities in managing the O&C lands, but none of these laws repealed the underlying primary direction and authority for the O&C lands. Thus, the BLM has a duty to find a way to concurrently implement all these laws, in a manner that harmonizes any seeming conflict between them, unless Congress has provided that one law overrides another law. This is the situation in the Federal Land Policy and Management Act, in which Congress provided that in any conflict between that law and the O&C Act, the O&C Act would prevail. Thus, the O&C Act takes precedence over the Federal Land Policy and Management Act with regard to timber management and receipts distribution.

O&C Act

The 1937 act that administers the O&C lands is untitled, but, through the title given to the codified regulations that administer the act, it is now known as the Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (O&C Act).

Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (43 U.S.C. §1181a et seq.)

The 1937 Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (O&C Act) provides the legal authority to the Secretary of the Interior for management of the O&C lands. The O&C Act was intended to provide forest management that would generate revenue to the local counties and halt previous practices of clearcutting without reforestation and the “boom and bust” cycles caused by logging in excess of the forest’s sustained yield capacity. The O&C Act limited timber harvest to a level that could be continued without exceeding the amount of forest growth to avoid depletion of timber resources and provide other benefits.⁵

The O&C Act requires that the O&C lands be managed “for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities” (43 U.S.C. §1181a).

O&C Act

For the complete act and its regulations, search for Title 43 and all sections starting with Section 1181a at <http://uscode.house.gov>

The O&C Act goes on to state that “[t]he annual productive capacity for such lands shall be determined and declared ... [p]rovided, [t]hat timber from said lands ... not less than the annual sustained yield capacity ... shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market” (43 U.S.C. §1181a).

⁵H.R. Report, No. 1119, 75th Cong., 1st Sess. 2 (1937).



When monetary receipts from the sale of timber from the O&C lands are distributed, 50% is distributed to the counties in which the revested lands are located. That 50% is distributed to the counties according to their proportion of the total assessed value of the revested lands that existed in each of the counties in 1915. Those percentages range from 0.36% to 25.05% for the 18 O&C counties. It does not matter in which counties the timber is harvested. All counties get their assigned percentage of whatever receipts are available each year. When monetary receipts from the sale of timber from the Coos Bay Wagon Road lands are distributed, up to 75% of the receipts derived in any one year are distributed annually to Coos and Douglas Counties according to the ratio of the total assessed valuation of the Coos Bay Wagon Road lands and timber in each county to the total assessed valuation of all lands and timber in those counties.

In meeting the various requirements for managing the O&C lands, the Secretary of the Interior has discretion under the O&C Act to determine how to manage the forest to provide for permanent forest production on a sustained yield basis. While the O&C Act does state that “the timber thereon shall be sold, cut, and removed in conformity with the principal [sic] of sustained yield,” it does not specify the harvest methods, rotation length, or silviculture regimes under which these forests would be managed. The O&C Act also does not establish a minimum level of harvest or a minimum level of receipts.

Federal Land Policy and Management Act (43 U.S.C. §1701 et seq.)

The Federal Land Policy and Management Act of 1976 (FLPMA) provides the legal authority to the Secretary of the Interior for the management of public domain lands. The act requires, in part, that “the public lands scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use” (43 U.S.C. §1701 [Sec. 102.a.8]). In addition, the act requires that “the public lands be managed in a manner which recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber from the public lands” (43 U.S.C. §1701 [Sec. 102.a.12]).

Federal Land Policy and Management Act (FLPMA)

For the complete act and its regulations, search for Title 43 and all sections starting with Section 1701 at <http://uscode.house.gov>.

However, the FLPMA specifically provides that if there is any conflict between its provisions and the O&C Act related to management of timber resources or the disposition of revenues from the O&C lands and resources, the O&C Act prevails (i.e., takes precedence) (43 U.S.C. §1701). Thus, the multiple-use management direction of the FLPMA does not apply to the O&C lands that are suitable for timber production. On the other hand, in contrast to the multiple-use management direction, the planning process established by the FLPMA is applicable to the O&C lands, because it is not in conflict with the O&C Act’s management direction for those lands.

Note that the multiple-use management direction of the FLPMA does apply to other BLM-administered lands in the planning area (e.g., the public domain lands).

Endangered Species Act (as amended) (16U.S.C. §1531 et seq.)

Section 7 of the Endangered Species Act (ESA) requires federal agencies to use their legal authorities to promote the conservation purposes of the act. This section also requires federal agencies to consult with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service to ensure that actions they authorize, fund, or carry out will not jeopardize species listed as threatened or endangered under the ESA or cause destruction or adverse modification to designated critical habitat for such species. Critical habitat is defined, in part, as geographic areas

Endangered Species Act

For the complete act and its regulations, search for Title 16 and all sections starting with Section 1531 at <http://uscode.house.gov>



occupied by the species that contain the physical or biological features essential to the conservation of a species listed under the act and that may need special management or protection. (USDI USFWS 2005c).

Clean Water Act (as amended) (33 U.S.C. §1251 et seq.)

The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. To accomplish this objective, the statute requires that: water quality standards consistent with the statutory goals of the Clean Water Act be established; water bodies be monitored to determine whether the water quality standards are being met; and, if all of the water quality standards are being met, then antidegradation policies and programs, including ambient monitoring, be employed to keep the water quality at acceptable levels. In accord with this statute, the responsibility for establishing these standards, developing a strategy for meeting these standards, and monitoring their attainment in Oregon has been delegated to the Oregon Department of Environmental Quality.

Clean Water Act
For the complete act and its regulations, search for Title 33 and all sections starting with Section 1251 at <http://uscode.house.gov>.

The policy declaration in the Federal Land Policy and Management Act states that the BLM should manage the public lands in a manner that protects many resources and their values, including the water resource (43 U.S.C. §1701[a][8]). The FLPMA directs that land use plans provide for compliance with applicable State and Federal air, water, noise, or other pollution control laws, standards, or implementation plans (43 U.S.C. §1712[c][8]).

In regard to water resources, Sections 303(d) and 319 of the Clean Water Act are most relevant to management of BLM-administered lands. Section 303(d) (codified as 33 U.S.C. §1313[d]) directs the states and tribes to develop a list of waters that fail to meet water quality standards for various constituents including, among others, sediment, temperature, and bacteria. Section 303(d) requires states and tribes to develop total maximum daily loads (TMDLs) that apportion a load of pollutants that can be discharged into the waters of a state. The TMDLs determine what level of pollutant load would be consistent with meeting the water quality standards and allocate acceptable loads among sources of the relevant pollutants. Necessary reductions in pollutant loading are achieved by implementing strategies authorized by the Clean Water Act, along with other tools available from federal, state, and local governments and nongovernmental organizations. (U.S. Environmental Protection Agency, Watershed Academy Web. *Introduction to the Clean Water Act*. March 13, 2003. URL: <http://www.epa.gov/watertrain/cwa/rightindex.htm> [accessed March 2008]). Section 319 (codified as 33 U.S.C. §1329) established management programs to control water pollution from nonpoint sources, such as sediment.

Healthy Forests Restoration Act (16 U.S.C. § 6501 et seq.)

The Healthy Forests Restoration Act of 2003 directs the BLM and U.S. Forest Service to do thinning and prescribed burns on federal lands to reduce dense undergrowth that fuels catastrophic fires. The Healthy Forests Restoration Act provides improved statutory processes for hazardous-fuel reduction projects on certain types of at-risk federal lands. The Act also provides other authorities and direction to help reduce hazardous fuels and to restore healthy forest and rangeland conditions on lands of all ownerships.

The BLM's Application of the O&C Act

Based on the language of the O&C Act, the O&C Act's legislative history, and the decision by the Ninth Circuit Court in *Headwaters v. BLM*, 914 F.2d 1174 (9th Cir. 1990), it is clear that management of timber (including harvesting) is the dominant use of the O&C lands in western Oregon. That dominant use, however, must be implemented in full compliance with a number of subsequent laws that direct how the BLM accomplishes the statutory direction. See *Appendix A - Legal Authorities* for a discussion of court rulings most relevant to the decisions that must be made in revising the resource management plans for the BLM-administered lands in western Oregon.



The following sections discuss the laws that affect management of areas of critical environmental concern, wilderness study areas, visual resources, and special status species.

Areas of Critical Environmental Concern

The Federal Land and Policy Management Act provides authority for designation of areas of critical environmental concern (43 U.S.C. §1712 [Sec. 202.c.3]). However, the O&C Act prevails over the FLPMA with regard to the management of timber resources on O&C lands. With these two laws, the BLM:

- Would manage areas of critical environmental concern to protect their relevant and important features on O&C lands where management of the area of critical environmental concern would not conflict with sustained yield forest management in areas dedicated to timber production.
- Would manage areas of critical environmental concern to protect their relevant and important features on: public domain lands; on O&C lands for which the Timber Productivity Capability Classification (TPCC) category is not included in the harvest land base (see *Appendix R - Vegetation Modeling*); and on O&C lands within land use allocations removed from the harvest land base.
- Would designate research natural areas, which are a type of area of critical environmental concern, on O&C lands when the scientific value of the research is relevant to sustained yield forest management.
- Would not designate other areas of critical environmental concern on O&C lands where management of the area of critical environmental concern would conflict with sustained yield forest management in areas dedicated to timber production.

Wilderness Study Areas

The Federal Land Policy and Management Act provided the authority for designation of wilderness study areas (43 U.S.C. §1782 [Sec. 603]), but that authority expired in 1993. Moreover, the O&C Act prevails over the FLPMA with regard to management of timber resources on O&C lands. With these two laws, the BLM:

- Cannot designate additional wilderness study areas due to the expiration of that designation authority under the FLPMA.
- Can manage lands outside of the existing wilderness study areas for wilderness characteristics on O&C lands where management for wilderness characteristics would not conflict with sustained yield forest management in areas dedicated to timber production.
- Can manage lands outside of the existing wilderness study areas for wilderness characteristics on public domain lands.

Visual Resources

The Federal Land Policy and Management Act provides authority for protection of scenic values (43 U.S.C. §1701 [Sec. 102.a.8]). However, the O&C Act prevails over the FLPMA with regard to the management of timber resources on O&C lands. With these two laws, the BLM:

- Would protect scenic values as identified through a visual resource management inventory where the protection is required as part of the management specified by Congress in subsequent legislation, such as the Wild and Scenic Rivers Act.
- Can protect scenic values as identified through a visual resource management inventory on O&C lands where protection would not conflict with sustained yield forest management in areas dedicated to timber production.
- Can protect scenic values as identified through a visual resource management inventory on public domain lands.



Special Status Species

Special status species include those species that are listed under the Endangered Species Act as threatened or endangered (including proposed and candidate species); listed by a state as threatened, endangered, or candidate species; and listed by the BLM as sensitive. The *BLM Manual 6840 – Special Status Species Management* provides direction for management of species listed as having special status. The Endangered Species Act provides authority for management of species listed as threatened or endangered. The Sikes Act provides authority for management of state-listed species. The FLPMA provides authority for management of species listed by the BLM as sensitive. The O&C Act prevails over the FLPMA with regard to management of timber resources on O&C lands. However, application of the special status species policy to provide specific protection to species listed by the BLM as sensitive does not conflict with management of timber resources on O&C lands. With these four laws and BLM policy, the BLM:

- Must, as a federal agency, follow certain procedures to assure that the exercise of its authorities would not likely jeopardize a listed species or adversely modify the critical habitat of a listed species on all BLM-administered lands.
- Must utilize its authorities to further the purposes of the Endangered Species Act by managing BLM-administered lands in a manner that aids the recovery of threatened and endangered species.
- Would accord specific protection to a state-listed species under the O&C Act where the state and the BLM have entered into a cooperative management agreement for a species.
- Would accord specific protection to species that are listed by the BLM as sensitive on BLM-administered lands.

Management of the Public Domain Lands in Relation to the O&C Lands

Of the 2,557,800 acres of BLM-administered lands in the planning area, approximately 394,600 acres are public domain lands. About half of those public domain lands are small parcels that are widely scattered and intermingled with the O&C lands. While the FLPMA requires that public domain lands be managed for a multitude of values, the FLPMA does not require that every parcel be managed for every value. As in previous resource management plans, these public domain parcels will be managed in accordance with the 1975 Public Land Order (PLO) No. 5490, which reserves these intermingled public domain lands for multiple-use management, including the sustained yield of forest resources in connection with the intermingled revested Oregon and California Railroad Grant lands and reconveyed Coos Bay Wagon Road Grant lands.

Public Law Order (PLO) 5490

For the complete subject heading and Federal Register citation, search for PLO 5490 at http://www.blm.gov/wo/st/en/prog/more/lands/public_land_orders.html

The alternatives consider a range of uses and management objectives for public domain lands in the planning area. The alternatives vary the strategy for managing land and resources for threatened and endangered species, wildlife, water quality, fish, and timber production. This variation in the range of alternatives permits the BLM to consider multiple uses for the public domain lands and to select the use or combination of uses that will best meet the purpose and need for the proposed action.

These variations in the alternatives with respect to public domain lands directly reflect the difference between the public domain lands, which have a multiple use mandate, and the O&C lands for which timber production is the dominant use. For example, all alternatives include management of lands outside of existing wilderness study areas for wilderness characteristics on public domain lands, but not on O&C lands. All alternatives would manage areas of critical environmental concern to protect their relevant and important features on public domain lands regardless of any conflict with sustained yield timber management, but would only manage areas of critical environmental concern to protect their relevant and important features on O&C lands where it would not conflict with sustained yield timber management. The Proposed RMP would include visual resource management that would conflict with sustained-yield timber management on some public domain lands that is not provided on O&C lands.



Planning Area

The entire planning area includes all lands (private, local, state, and federal) in western Oregon. See *Map 1-1 (Entire planning area of the resource management plan revisions)*. The RMP revisions will affect BLM-administered lands in the BLM districts and counties of western Oregon that are listed in *Table 1-1 (BLM districts and Oregon counties included in the planning area of the resource management plan revisions)*.

The current RMPs provide procedures and requirements for management of approximately 2,557,800 acres of federal land within the planning area. These acres are the orange blocks in *Map 1-1*. These BLM-administered lands are widely scattered and represent only about 11% of the planning area. Of the approximately 2,557,800 acres administered by the BLM, approximately 2,151,200 acres are managed primarily under the O&C Act and are commonly referred to as the O&C lands. The remaining 406,600 acres are public domain lands (394,600 acres) and other lands (12,000 acres) that are managed primarily under the Federal Land Policy and Management Act. See *Table 1-2* for the status of all federal lands in the planning area per district. (*Note:* The RMPs also apply to an additional 69,000 acres that are split-estate lands for which the BLM manages only the subsurface mineral estate.)

Much of the O&C lands have retained the checkerboard character of the original railroad land grants of the 1800s, with the BLM administering the odd-numbered sections. Because of this ownership pattern, activities on adjacent private lands have implications for management of federal lands. The BLM typically administers less than half, and often only a small percentage, of the land in any particular fifth-field watershed.

Checkerboard Ownership

A land ownership pattern in which square-mile sections of federal lands are intermixed with and surrounded by private lands.

TABLE 1-1. BLM DISTRICTS AND OREGON COUNTIES INCLUDED IN THE PLANNING AREA OF THE RESOURCE MANAGEMENT PLAN REVISIONS

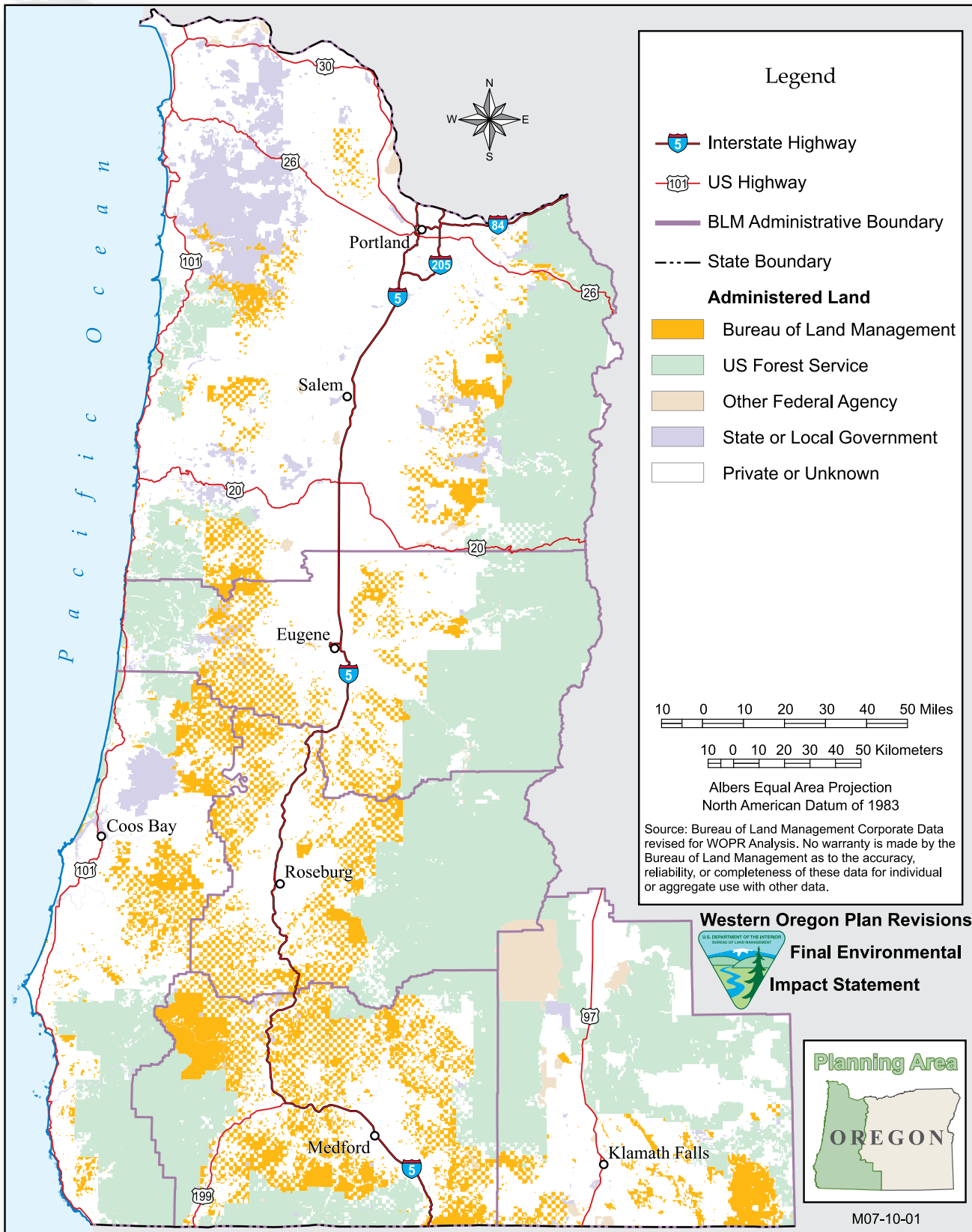
BLM Districts	Oregon Counties	
Coos Bay	Benton	Lane
Eugene	Clackamas	Lincoln
Lakeview (Klamath Falls Resource Area only)	Columbia	Linn
Medford	Coos	Marion
Roseburg	Curry	Multnomah
Salem	Douglas	Polk
	Jackson	Tillamook
	Josephine	Washington
	Klamath	Yamhill

TABLE 1-2. LEGAL STATUS OF LANDS ADMINISTERED BY THE BLM IN WESTERN OREGON

BLM District	O&C and Coos Bay Wagon Road Lands (acres)	Public Domain (acres)	Other (acres)	Total (acres)
Salem	349,300	51,600	2,100	403,000
Eugene	304,200	10,500	400	315,100
Roseburg	406,500	19,800	0	426,300
Coos Bay	279,400	41,800	1,500	322,700
Medford	764,900	96,100	4,800	865,800
Klamath Falls Resource Area (Lakeview District)	46,900	174,800	3,200	224,900
Total	2,151,200	394,600	12,000	2,557,800



MAP 1-1. ENTIRE PLANNING AREA OF THE RESOURCE MANAGEMENT PLAN REVISIONS





Planning Process

The following tasks were completed prior to release of this final environmental impact statement:

- Scoping was conducted during September and October 2005 to identify issues, concerns and opportunities associated with the proposed action. Additional information about this scoping is provided later in this chapter, under *Formal Scoping*.
- The Analysis of the Management Situation (AMS) was released in October 2005. This analysis determined the BLM's ability to respond to its identified issues and opportunities, and also provided a basis for formulating reasonable alternatives.
- The scoping report and the planning criteria to guide development of the alternatives and the analysis of their effects were released in February 2006.
- The draft environmental impact statement was released in August 2007 and made available for public review and comment until January 2008. Also, the BLM held about 170 meetings with various groups, organizations, and public officials. The BLM received about 29,500 communications with comments.

The Assistant Secretary of Land and Minerals Management in the Department of Interior is the responsible official for this RMP revision. The Federal Land Policy and Management Act and its implementing regulations provide land use planning authority to the Secretary, as delegated to this Assistant Secretary. Because this decision is being made by the Assistant Secretary, Land and Minerals Management, it is the final decision for the Department of the Interior. This decision is not subject to administrative review (protest) under the BLM or Departmental regulations (43 CFR 1610.5-2). Because there is no administrative review, the Record of Decision will not be signed until at least 30 days after the Notice of Availability for the Final EIS appears in the Federal Register (see 40 CFR 1506.10[b]).

Collaboration

The Federal Land Policy and Management Act and the National Environmental Policy Act provide direction regarding the coordination and cooperation of federal agencies with other agencies and also local and state governments. The FLPMA specifically emphasizes the need to ensure coordination and consistency of a federal agency's proposed actions with the plans and policies of other relevant jurisdictions. The Council on Environmental Quality's regulations for implementing the National Environmental Policy Act specifically require cooperative relationships between lead and cooperating agencies. Other plan and program coordination is described in Chapter 5.

National Environmental Policy Act (NEPA)

For the complete act and its regulations, search for Title 42 and all sections starting with Section 4321 at <http://uscode.house.gov>.

Formal Cooperators

Cooperating agency status provides a formal framework for governmental units (including local, state, and federal) to engage in active collaboration with a lead federal agency to implement requirements of the National Environmental Policy Act. Within constraints of time and resources, cooperating agency staff members are encouraged to participate fully with the BLM as members of the environmental impact statement team.

For these RMP revisions, the BLM has worked with cooperators from many agencies. Cooperators have provided expertise in much of the subject matter being analyzed and have provided advice based on experiences with similar planning efforts. See *Table 1-3 (Formal cooperators)* for a list of the formal cooperators for these RMP revisions.



TABLE 1-3. FORMAL COOPERATORS

Federal Agencies	State Agencies	Oregon Counties	
United States Forest Service	Office of the Governor	Benton ^a	Lane
United States Fish and Wildlife Service	Department of Agriculture	Clackamas	Lincoln
National Marine Fisheries Service	Department of Environmental Quality	Columbia	Linn
Environmental Protection Agency	Department of Fish and Wildlife	Coos	Marion
	Department of Forestry	Curry	Polk
	Department of Geology and Mineral Industries	Douglas	Tillamook
	Department of Parks and Recreation	Jackson	Washington
	Department of State Lands	Josephine	Yamhill
	Department of Transportation	Klamath	
	State Marine Board		
	Water Resources Department		

^aNot represented by the Association of O&C Counties.

TABLE 1-4. FEDERALLY RECOGNIZED TRIBES WITHIN, OR WITH INTERESTS IN, THE PLANNING AREA

Tribes
Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians of Oregon
Coquille Tribe of Oregon
Cow Creek Band of Umpqua Indians of Oregon
Confederated Tribes of Grand Ronde Community of Oregon
Confederated Tribes of Siletz Reservation, Oregon
Confederated Tribes of the Warm Springs Reservation of Oregon
Klamath Tribes, Oregon
Modoc Tribe of Oklahoma
Quartz Valley Indian Community of the Quartz Valley Reservation of California

Government-to-Government Relationships

There are nine federally recognized tribes within the planning area, or with interests in the planning area. See *Table 1-4 (Federally recognized tribes within or with interests in the planning area)*. The tribes within the planning area have stated that they want government-to-government relationships rather than cooperator relationships.

Coquille Restoration Act

For the complete act and its regulations, search for Title 25 and all sections starting with Section 715 at <http://uscode.house.gov>.

The Coquille Indian Tribe is directly engaged in the planning process, because the management of the Coquille Forest is subject by law (25 U.S.C. § 715c(d)) to the standards and guidelines of forest plans for adjacent or nearby Federal forest lands. Title V of the Oregon Resource Conservation Act of 1996 (Public Law 104-208) created the Coquille Forest to be held in trust for the benefit of the Coquille Indian Tribe. The Act states that the Coquille Forest shall be managed “under applicable State and Federal forestry and environmental protection laws, and subject to critical habitat designations under the Endangered Species Act, and subject to the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands,



now and in the future.” The Act also requires the Secretary of the Interior to take the Coquille Forest lands into trust for the benefit of the Coquille Indian Tribe.

The Coquille Indian Tribe desires a management plan for the Coquille Forest that will provide management more specific to the Coquille Forest and the adjacent BLM-administered lands than in either the Proposed RMP or the alternatives considered in this environmental impact statement. Subsequent to this RMP revision, the BLM will cooperate with the Coquille Indian Tribe to develop a specific management plan for the Coquille Forest and the adjacent BLM-administered lands, consistent with the federal government’s trust responsibilities to the Coquille Indian Tribe. This future management plan would require an RMP amendment if it involved changes to land use allocations, management objectives, or management direction that would result in different resource uses, terms, conditions, and decisions for the BLM-administered lands adjacent to the Coquille Forest. See *Figure 1-1 (Coquille Forest and adjacent BLM-administered lands)*.

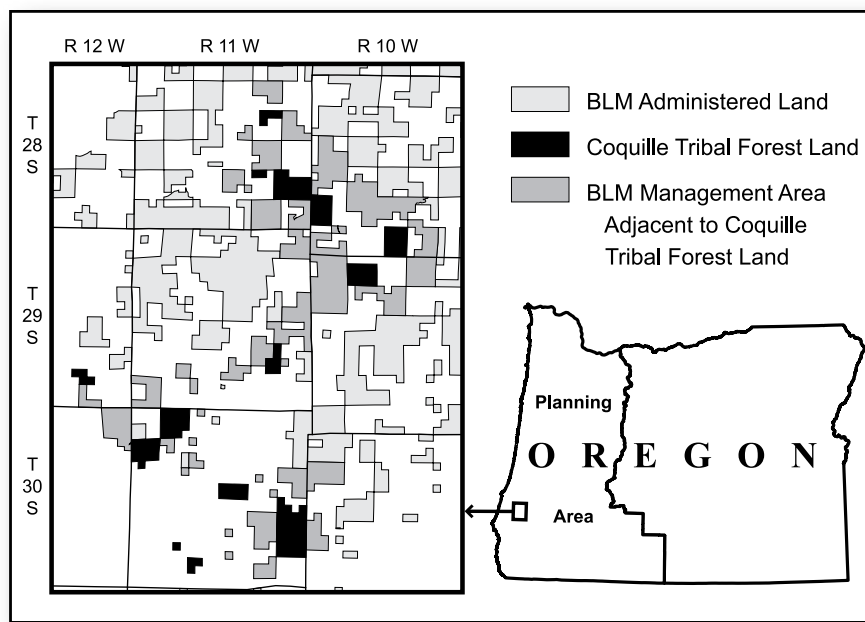


FIGURE 1-1. COQUILLE FOREST AND ADJACENT BLM-ADMINISTERED LANDS

contacted the six BLM districts regarding the RMP revisions or the 2004 survey and manage environmental impact statement. Approximately 75 meetings were conducted with interested parties in western Oregon. These public meetings included one-on-one meetings with key stakeholders, presentations to organized groups and agencies, tours, and advertised public meetings. Several newspaper articles reported on the scoping process and advertised the public meetings.

The BLM also requested that an outside organization conduct an independent assessment of the interests and concerns of the stakeholders. The Public Policy Research Institute at the University of Montana was retained to solicit ideas on how to involve the public throughout the planning process. The Institute conducted this assessment with the assistance of RESOLVE and the Consensus Building Institute, which are two nationally recognized public involvement organizations. Their report and recommendations were considered in designing the public involvement activities.

About 3,000 communications were received during the scoping period. Comments included e-mail messages, written correspondence, face-to-face discussions, and meeting notes. The results of the scoping are available in the *Western Oregon Plan Revisions Scoping Report, February 2006*. This public input greatly assisted the BLM in formulating the draft environmental impact statement.

Formal Scoping

Scoping is a public involvement process, with the purpose of identifying early in the planning process issues that the environmental impact statement needs to address.

Summary of the Scoping Process

The formal scoping period started with the printing of a notice of intent in the Federal Register on September 7, 2005, and concluded on October 21, 2005. The first edition of the BLM planning newsletter (*Western Oregon Plan Revisions News, Scoping for Issues, Issue No. 1, August 2005*) was mailed in early September 2005 to approximately 11,000 postal addresses. The addresses were collected from interested parties who had



Issues Identified

An issue, in the context of an environmental impact statement, is a point of disagreement, debate, or dispute with a proposed action and is based on some anticipated environmental effect that is well-defined or topically discrete. Identifying issues helps to develop alternatives and provides factors to be considered in choosing among the alternatives. Issues identified during scoping for these RMP revisions are:

- **Vegetation.** How should the BLM provide a sustainable supply of wood and other forest products, as mandated by the O&C Act, while also meeting all applicable laws and regulations?
- **Habitat for species listed under the Endangered Species Act.** How should the BLM manage federal lands in a manner that is consistent with the Endangered Species Act in order to contribute to the conservation of species?
- **Watershed management and water quality.** How should the BLM manage federal lands to contribute to goals of the Clean Water Act and the Safe Drinking Water Act?
- **Wildland fire and fuels.** How should the BLM manage federal lands to reduce the risk of wildfires and integrate fire back into the ecosystem?
- **Off-highway vehicle management (particularly in the Medford District).** How should the BLM administer federal lands to meet the demand for off-highway vehicle use while protecting other resources?

Relationship of the RMPs to Other Plans and Programs

The April 1994 record of decision for the Northwest Forest Plan, signed jointly by the Secretary of the Interior and the Secretary of Agriculture, required the BLM to incorporate the Northwest Forest Plan's land use allocations and its standards and guidelines into the district resource management plans for western Oregon. The RMPs were subsequently amended by the following interagency plan amendments:

- *January 2001, Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines in Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl*

Note: The survey and manage categorizations for the red tree vole were established in this record of decision. The Ninth Circuit Court decision in *Klamath-Siskiyou Wildlands Center v. Boody*, 468 F.3d 549 (9th Cir., 2006), found that the changes to those survey and manage categorizations for the red tree vole would constitute plan amendments that need to be analyzed with National Environmental Policy Act procedures. The court then invalidated the re-categorizations regarding the red tree vole, because the BLM had not prepared a National Environmental Policy Act document to amend the plans. Whether other re-categorizations made through the annual species review process would constitute plan amendments has not been addressed in litigation.

- *July 2007, Record of Decision to Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans within the Range of the Northern Spotted Owl*

Note: The United States District Court for the Western District of Washington found a March 2004 interagency record of decision to remove the survey and manage mitigation measure invalid since it relied on a supplemental environmental impact statement that the Court found deficient in certain respects. See *Northwest Ecosystem Alliance v. Rey*, 380 F. Supp. 2d 1175 (W.D. Wash. 2005). The Court issued an order of relief on January 9, 2006. That order was later modified by



another order dated October 11, 2006, which allowed the decision to eliminate the survey and manage requirement to take effect for four specified activities. Another interagency supplemental environmental impact statement was prepared to address deficiencies in the 2004 supplemental environmental impact statement found by the Court. The BLM issued a record of decision in July 2007, amending the plans within the Northwest Forest Plan area to remove the survey and manage mitigation measure from the standards and guidelines in those plans.

In addition to the above interagency amendments, the BLM has also amended individual resource management plans. These amendments include the Record of Decision and Resource Management Plan Amendment for Management of Port-Orford-Cedar in Southwest Oregon, Coos Bay, Medford, and Roseburg District (May 2004), which was based on an interagency supplemental environmental impact statement. Under all alternatives, Port-Orford-Cedar would be managed in accordance with the record of decision for the “Management of Port-Orford-Cedar in southwest Oregon, Coos Bay, Medford, and Roseburg Districts.”

The Northwest Forest Plan is not a statute or regulation. It was a coordinated, multi-agency amendment to then current RMPs of the BLM and forest plans of the U.S. Forest Service. The Secretaries and the agencies retained authority provided by statutes and regulations to revise these plans in the future. The only provision the Northwest Forest Plan made concerning future amendments or modifications to these plans was that they would be “coordinated” through the “Regional Interagency Executive Committee and the Regional Ecosystem Office” (USDA USFS and USDI BLM 1994c, p. 58.). The Northwest Forest Plan did not change the authority provided under the Federal Land Policy and Management Act and its promulgating regulations for revising resource management plans.

The 1994 Northwest Forest Plan was implemented on the BLM-administered lands in western Oregon in 1995 through the completion of its RMPs in the six western Oregon Districts. These plans, consistent with FLPMA planning regulations, anticipated the possibility that periodic plan evaluations could lead to plan revisions. In keeping with the intention of the Northwest Forest Plan to encourage cooperation and coordination of programs among the federal agencies, the BLM has briefed the Regional Interagency Executive Committee on this plan revision. Furthermore, many agencies which were signatories to the Memorandum of Understanding that created the Regional Interagency Executive Committee and the Regional Ecosystem Office are cooperating agencies in this revision. Those cooperating agencies include the U.S. Forest Service, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Environmental Protection Agency.

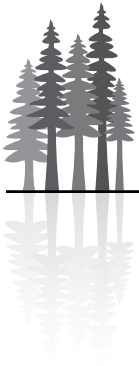
Endangered Species Act, Section 7, Consultation

Pursuant to the Endangered Species Act (ESA), the BLM, as a federal agency, consults with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service (Services) on proposed programs and actions that may affect listed species.

A resource management plan (RMP) establishes guidance for planning future specific actions to carry out management strategies on the ground. Through the NEPA process, the BLM, in cooperation with the Services, looked broadly at the effect of the management approach of the revised plans on listed species and their designated critical habitat to design the proposed revisions so that future actions carrying out the plans’ direction would help conserve listed species. No effects on listed species or critical habitat would take place until future actions are undertaken in accordance with the plans, and additional project-level planning and decision-making would be required before such actions could proceed. Because no specific on-the-ground

Recovery Planning

For details about the recovery planning for the northern spotted owl and other species that is being led by the U.S. Fish and Wildlife Service, visit <http://www.fws.gov/pacific/ecoservices/endangered/recovery/NSORecoRecoveryPlanning.htm>.



activity would actually be proposed in the revised RMPs, there is not enough information about the timing, size, location, and design of future actions to identify or authorize a specific level of incidental take in a biological opinion under Section 7(a)(2) of the ESA for the plans. As future actions would be proposed that would be planned in accord with the approved RMPs, those actions would undergo project-level consultation, either formally or informally (as appropriate). Such project-level consultations would provide sufficiently detailed information to allow decisions about what actions would take place on the ground and what levels of potential incidental take would be authorized, if appropriate.

Additionally, species recovery plans and consideration of revisions to critical habitat have concurrently been in progress for several threatened and endangered species. The BLM anticipates that these recovery plans and re-designations of critical habitat will be completed prior to a decision on this RMP revision.

Water and Air Quality Management

As part of this RMP revision, the BLM will concurrently coordinate with various agencies on water and air quality management. The BLM will coordinate with the Environmental Protection Agency and the Oregon Department of Environmental Quality (the federally designated management agency) on water quality standards and other requirements of the federally designated management agency as authorized by the Clean Water Act. Similarly, the BLM will coordinate with the Environmental Protection Agency, the Oregon Department of Environmental Quality, and the U.S. Forest Service to minimize the impacts of emissions from prescribed burns.