

DEPARTMENT OF AGRICULTURE**Forest Service****Triangle Land Exchange; Malheur, Umatilla, and Wallowa-Whitman National Forests; Baker, Grant, Harney, and Wallowa Counties, OR**

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) on a proposal to exchange lands with Clearwater Land Exchange-Oregon (Clearwater). Clearwater is acting as a third party facilitator for multiple non-federal landowners. The proposal is to exchange about 5,700 acres of non-federal land for approximately 3,939 acres of federal lands in the Blue Mountains of Northeastern Oregon. The proposed exchange will be in compliance with the 1990 National Forest Land and Management Plans (Forest Plans) for the Malheur, Umatilla, and Wallowa-Whitman National Forests, as amended, which provide overall guidance for management of this area. The federal and non-federal lands are located in Baker, Grant, Harney, and Wallowa Counties of eastern Oregon; and on eight Ranger Districts of the three Pacific Northwest Forests. Ranger Districts involved are Bear Valley, Burns, and Long Creek Districts on the Malheur National Forest; Pomeroy, North Fork John Day, and Walla Walla Districts on the Umatilla National Forest; and Baker and Unity Districts on the Wallowa-Whitman National Forest. Implementation of proposed exchange is scheduled for January 2001. The Malheur National Forest invites written comments and suggestions on the scope of the analysis. The agency gives notice of full environmental analysis and decision making process that will occur on the proposal so interested and affected members of the public may become aware of how they can participate in the process and contribute in the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing on or before October 29, 1999.

ADDRESSES: Send site specific written comments and suggestions concerning this proposal to Gary W. Lieuallen, Lands Officer, Malheur National Forest, PO Box 909, John Day, Oregon 97845.

FOR FURTHER INFORMATION CONTACT: Bob Miles, Resource Planner, PO Box 909, John Day, Oregon 97845, phone 541-575-3000.

SUPPLEMENTARY INFORMATION: An environmental assessment (EA) on an original proposal entitled the Triangle Land Exchange was released for public comment on October 22, 1998. After this comment period, it was determined that Clearwater could not acquire mineral ownership on about 1,630 acres of the non-federal land, and this land was dropped from the exchange. The EA was revised and released for public comment on April 14, 1999. The revised EA could not make a Finding of No Significant Impact (FONSI). It was determined that an EIS should be completed for this proposal.

The purpose and need of the proposed exchange is to enhance natural resource management and improve management efficiency of federal lands through ownership consolidation. Consolidation (1) reduces boundaries requiring survey and maintenance (2) reduces numbers of permits for join-use roads, and (3) eliminates easements and agreements necessary to access in-holdings.

Other federal goals and objectives are (1) to protect habitat for threatened, endangered, or sensitive species, (2) to acquire private land in-holdings within the Wenaha Wild and Scenic River Corridor, (3) to acquire private land in-holdings adjacent to the North Fork John Day Wilderness, (4) to improve public access to federal lands, (5) to improve efficiency in resource management by focusing limited dollars and staff in consolidated areas, and (6) to improve public service.

All the federal lands proposed for exchange are on the Malheur National Forest. They were included in the land ownership adjustment schedule of the 1990 Malheur National Forest Land and Resources Management Plan (LRMP) (Appendix M of the Plan) as lands available for exchange. These federal parcels are not within the interior of the Forest. Public access on National Forest System (NFS) lands adjacent to or near the federal parcels will be maintained.

All the parcels proposed to be acquired meet Oregon State Forest Practices Act standards and no reforestation or restoration activities have been identified. There are no anticipated rehabilitation costs to the federal government.

All the parcels for exchange are within the geographic area of ceded lands and/or area of interest of the Confederated Tribes of the Umatilla Reservation, Confederated Tribes of the Warm Springs Reservation, Confederated Tribes of the Nez Perce, or the Burns Paiute Tribes.

No Congressionally Designated Areas (i.e., Wilderness, Wild and Scenic

Rivers) are proposed to change from USDA jurisdiction. The regulations for land exchanges (36 CFR 254.3(f)) state: "Lands acquired by exchange that are located within areas having an administrative designation established through the land management planning process shall automatically become part of the area within which they are located without further action by the Forest Service, and shall be managed in accordance with the laws, rules, and regulations, and land and resource management plan applicable to such area."

The Clearwater exchange lands are suitable and desirable for inclusion in NFS, because consolidated ownership of these lands with NFS would enhance the Forest Service's ability to implement ecosystem management, and would increase the amount of Wild and Scenic River in the NFS.

The exchange meets the public interest requirements in 36 CFR 254.3(b): (1) The resource values and the public objectives served by the non-federal lands and interests to be acquired are equal or exceed the resource values and the public objectives served by the federal lands to be disposed; and (2) The intended use of the disposed federal land will not substantially conflict with established management objectives on adjacent federal lands, including Indian Trust lands.

Lands will be exchanged on a value for value basis, based on current fair market value appraisals. The appraisal is prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisition. The appraisal prepared for the land exchange is reviewed by a qualified review appraiser to ensure that it is fair and complies with the appropriate standards. Under the Federal Land Policy and Management Act of 1976, all exchanges must be equal in value. Forest Service regulations at 36 CFR 254.3(c) require that exchanges must be of equal value or equalized pursuant to 35 CFR 254.12 by cash payment after making all reasonable efforts to equalize values by adding or deleting lands. If lands proposed for exchange are not equal in value, either party may make them equal by cash payment not to exceed 25 percent of the federal land value.

Five of the non-federal parcels proposed for exchange are identified as having floodplains; however, preliminary analysis indicates that implementation of any action alternative meets the intent of Executive Order 11988, Floodplain Management.

Preliminary issues identified will include effects on threatened, endangered, and proposed species; and exchanging federal lands which contain late and old structure stands (LOS).

One of the purposes of this notice of intent is to solicit input and encourage members of the public, interested organizations, federal, state and county agencies, and local tribal governments to take part in planning this project. Public participation will be especially important at several points during the analysis, beginning with this scoping process. Scoping will include listing this EIS in the Malheur National Forest's Schedule of Proposed Activities; letters to agencies, organizations, and individuals who have already indicated their interest in land exchanges; and news releases in the Blue Mountain Eagle, Baker City Herald, and Eastern Oregonian. Information received will be used in preparation of the draft EIS. The scoping process will include: (1) Identifying additional potential issues; (2) identifying issues to be analyzed in depth; (3) eliminating non-significant issues or those which have been covered by a previous environmental analysis; (4) exploring additional alternatives; and (5) identifying potential environmental effects of the proposed action and alternatives (*i.e.* direct, indirect, and cumulative effects and connected actions).

No public meetings are contemplated; however, an open house in John Day, Oregon, is anticipated to occur following issuance of the draft EIS. This open house will be announced in the Malheur National Forest's newspaper of record, the Blue Mountain Eagle; the Umatilla National Forest's newspaper of record, the Eastern Oregonian; and the Wallowa-Whitman National Forest's newspaper of record, the Baker City Herald.

A full range of alternatives will be considered, including a no action alternative. The no action alternative will serve as a baseline for comparison of alternatives. This alternative will be no change from the current management of the Forests and will be fully analyzed. The proposed action will be considered and additional alternatives developed around the proposed action to address significant issues identified during the scoping and public involvement process. Issues gathered may vary action alternatives in the number, location, and which parcels to exchange.

Comments received in response to this notice, including the names and addresses of those who comment, will be considered part of the public record

on this proposal and will be available to public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 and 251. Additionally, pursuant to 7 CFR 1.27(d); any person may request the agency to withhold a submission from the public record by showing how the freedom of information act (FOIA) permits such confidentiality, however, they should be aware that, under FOIA, confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The Forest Service is seeking information and comments from other Federal, State, and Local agencies; tribes, organizations; and individuals who may be interested in or affected by the proposed action. This input will be used in the preparation of the draft EIS.

The draft EIS will be filed with the Environmental Protection Agency (EPA) and is anticipated to be available for public review by March 2000. The comment period on the draft EIS will be 45 days from the date of EPA's Notice of Availability in the **Federal Register**. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, tribes, and members of the public for their review and comments. It is important that those interested in the management of the Malheur, Umatilla, and Wallowa-Whitman National Forests participate at that time.

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stag, but that are not raised until completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F. 2d 1016, 1002 (9th Cir. 1986), and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1335, 1338 (E.D. Wis. 1980). Because of these court rulings, it is

important that those interested in this proposed action participate by the close of the 45 day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is helpful if comments refer to specific page or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

After the 45 days comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by September 2000. In the final EIS, the Forest Service is required to respond to substantive comments received during the public comment period. The Responsible Official is the Forest Supervisor for the Malheur National Forest. She will consider the comments, responses, environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making a decision regarding this land exchange. The Responsible Official will document the Triangle Land Exchange EIS decision and rationale for the decision in a Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: September 17, 1999.

Bonnie J. Wood,

Acting Forest Supervisor, Malheur National Forest.

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DEPARTMENT OF AGRICULTURE

Forest Service

Upper North Fork 25 Fire Restoration, Wenatchee National Forest, Chelan County, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service will prepare an environmental impact