

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Medford District Office
3040 Biddle Road
Medford, Oregon 97504

DECISION RECORD

Rowlett (Box R) Land Exchange (Serial No. OR 66137 FD/PT)
EA Number: DOI-BLM-OR-M040-2014-0001-EA &
DOI-BLM-OR-M040-2014-0001-EA-R

INTRODUCTION AND BACKGROUND

The Bureau of Land Management (BLM) Medford District Office (MDO) has conducted an environmental assessment (EA), DOI-BLM-OR-M040-2014-0001-EA, revised by DOI-BLM-OR-M040-2014-0001-EA-R, to analyze the environmental effects and document the findings of a land exchange proposal submitted to the BLM by Donald E. and Jean Rowlett.

Sections 205 and 206 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, provide authority to the Secretary of the Interior to acquire lands or interests in lands by purchase, exchange, or donation and to dispose of Federal land or interests by exchange, when a determination is made that the public interest would be well served (43 U.S.C. § 1715, 1716).

Proclamation 7318, issued by President William J. Clinton under the provisions of the Antiquities Act of 1906, established the Cascade-Siskiyou National Monument (CSNM) on June 9, 2000, in recognition of its remarkable ecology and to protect a diverse range of biological, geological, aquatic, archaeological, and historic objects. The CSNM covers approximately 65,389 acres of Federal land (including acquisitions since 2010) in southwestern Oregon. Both the Federal and non-Federal lands included in this exchange lie within the boundary of the CSNM.

Congress gave the Secretary of the Interior the authority to enter into a series of discretionary land exchanges under the Omnibus Public Land Management Act of 2009 (the Act), Public Law No. 111-11, § 1403, 123 Stat. 991, 1028 (2009), including the Box R Exchange (now called the Rowlett Exchange, serialized as case file OR 66137 FD/PT). Section 1403(a) of the Act states:

IN GENERAL – For the purpose of protecting and consolidating Federal land within the Monument, the Secretary—(1) may offer to convey to the Landowner the Bureau of Land Management land in exchange for the Rowlett parcel;

The BLM and the Rowletts subsequently initiated a single-phase land exchange in accordance with the Act and Section 206 of FLPMA. The BLM completed an analysis of expected effects to determine whether the exchange was in the public interest and to determine whether there were

any significant effects on the quality of the human environment. The BLM is processing this land exchange using the administrative procedures under Section 206 of the FLPMA (43 U.S.C. § 1716) and the regulations at Title 43, Code of Federal Regulations (CFR), Subpart 2200 (43 CFR 2200), consistent with the provisions of the Act.

The EA analyzing the effects of the Rowlett Exchange is available at the Medford District Office and the following link:

<https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=58781&dctmId=0b0003e880ae5f31>

This Decision Record incorporates the EA and revised EA by reference. The BLM issued a Finding of No Significant Impact (FONSI) for the EA and a separate FONSI for the revised EA, which determined that the project is not a major Federal action that will significantly affect the quality of the human environment, individually or cumulatively, with other actions in the general area. The FONSI dated July 7, 2014, and the FONSI for the revised EA dated June 9, 2015, documented that there are no environmental effects meeting the definition of significance in context or intensity as defined at 40 CFR 1508.27. The EA and the revised EA documented the analysis of effects within the context of multiple spatial and temporal scales and within the context of Presidential Proclamation 7318 establishing the CSNM. The BLM will not complete an environmental impact statement because it was determined through analysis that no significant impact would result from this land exchange. Interested parties can also find the FONSI for the project at the above-referenced website.

PLAN CONFORMANCE AND CONSISTENCY REVIEW

The Box R (Rowlett) Land Exchange EA (DOI-BLM-OR-M0040-2014-001-EA and DOI-BLM-OR-M040-2014-0011-EA-R) is tiered to the Cascade-Siskiyou National Monument Proposed Resource Management Plan/Final Environmental Impact Statement (USDI, 2005). As required by 43 CFR § 2200.0-6(g), the exchange is in conformance with the Cascade-Siskiyou National Monument Record of Decision and Resource Management Plan (RMP) (USDI, 2008) as amended. The amendment dated October 17, 2013, revised sections of the RMP that were inconsistent with the Act, and the RMP now allows for exchanges where the Federal lands are within the boundaries of the CSNM as provided for in the Act.

Title II of the FLPMA authorizes the disposal of Federal lands and acquisition of non-Federal lands. Section 205 allows the BLM to acquire lands or interests in lands by purchase, exchange, or donation. Section 206 allows the BLM to dispose of Federal lands by exchange. Federal regulation 43 CFR Part 2200.0-6 allows for the completion of an exchange when in the public interest.

HAZARDOUS MATERIALS CLEARANCES

On December 1, 2014, the BLM approved the Phase I Environmental Site Assessments (ESAs) for both the Federal and non-Federal lands to determine if any recognized environmental conditions exist that may preclude the acquisition or disposal of the parcels. The ESAs were

updated on July 21, 2015. The ESAs conform to BLM Manual Handbooks H-2000-02, Environmental Site Assessments for Disposal of Real Property (for the Federal parcel), and H-2000-01, Pre-Acquisition Environmental Site Assessments (for the non-Federal parcel). The assessments did not disclose evidence of any hazardous substance releases, past environmental contamination, or existing solid waste dumping on the Federal or non-Federal lands.

EQUAL VALUE DETERMINATION

The BLM, through Interagency Agreement, acquired the services of the U.S. Department of the Interior (DOI) Office of Valuation Services (OVS) to obtain the market value appraisals for both the Federal and non-Federal parcels with an independent fee appraiser. The DOI OVS administered the contract, prepared an Appraisal Review Report, and approved the values for agency use. Both appraisals were completed in accordance with Federal standards, 43 CFR 2200.0-6(c), and with specifications and requirements set forth in the most current editions of the Uniform Standards of Professional Appraisal Practices, Uniform Appraisal Standards for Federal Land Acquisitions (“Yellow Book”).

On August 26, 2014, the OVS concluded and approved a final value of \$78,500, for both the Federal and non-Federal parcels. Therefore, there will be no cash equalization payment.

PUBLIC INTEREST DETERMINATION

The Act authorized this land exchange. The BLM has determined that this exchange is in the public interest for the following reasons: (1) the opportunity to achieve better management of Federal lands; (2) the needs of the State and local residents and their economies; and (3) securing important resource management objectives including, but not limited to, protection of fish and wildlife habitat, protection of riparian habitat, enhancement of recreational opportunities and public access, accommodation of land use authorizations, and fulfillment of public needs. 43 C.F.R. § 2200.0-6(b).

1. In accordance with 43 CFR 2200.0-6(b)(1), the resource values and public objectives of the Federal lands to be conveyed are not more than the resource values and the public objectives that the non-Federal lands could serve if acquired. The acquisition of the non-Federal land is more consistent with the values of the CSNM than the Federal land since it is adjacent to other CSNM lands.
2. The Federal land is completely surrounded by approximately 1,400 acres of contiguous private ownership, managed as part of the Box R Ranch, and is non-contiguous to any other Federal lands that are within the CSNM. The Federal land lacks public access, having been and continuing to be subject to the effects of the management of those adjacent private lands. The Federal land does not contribute to the purposes of the CSNM, as do other lands that are in closer proximity to other Federal lands.
3. Acquisition of the non-Federal land will enhance the purposes of the CSNM, in part due to the addition of 0.3 miles each of Lincoln Creek and Keene Creek, which are perennial streams containing critical riparian habitat. Keene Creek is listed on the Oregon Department

of Environmental Quality's (DEQ) 2010 list of water quality limited waterbodies for summer stream temperature (rearing habitat 17.8 degrees Celsius) and provides habitat for Jenny Creek suckers and redband trout.

4. A determination of public interest is also consistent with 43 CFR 2200.0-6(b)(2). The intended use of the conveyed Federal land will not significantly conflict with established management objectives on adjacent Federal land and Indian trust lands. Due to the fact that the Federal parcel lacks legal access, active management of that isolated parcel is inconsistent with the overall objectives of the Cascade-Siskiyou National Monument Proposed Resource Management Plan/Final Environmental Impact Statement (USDI, 2005). The exchange is in conformance with the RMP, as amended. The amendment, dated October 17, 2013, revised sections of the RMP that were inconsistent with the Act, and the RMP now allows for exchanges where the Federal lands are within the boundaries of the CSNM as provided for in the Act. The Federal land is subject to a grazing lease held by Rowlett, and it is reasonable to expect the management of this parcel will not alter from the existing and historical uses for private purposes.

5. The exchange also serves the public interest within the policy context of Sections 102(a)(8) and 206(a) of the FLPMA. The non-Federal land is fully within the boundary of the CSNM and would further consolidate public land ownership within the CSNM, thereby providing for better Federal land management.

DECISION

It is my decision to select Alternative 2 from the EA and revised EA, which would implement the legislated land exchange in accordance with the Act.

My decision authorizes exchanging 46.39 acres of Federal land for 46.0 acres of non-Federal land owned by Donald E. and Jean Rowlett, subject to third party rights shown below. Both properties contain the mineral estate. The revised EA and revised FONSI indicated an approximate non-Federal land parcel size of 40 acres. The 46.0 acre parcel size for the non-Federal land is based on the final survey and final parcel configuration selected.

The parties will convey the mineral estate on the Federal and non-Federal lands. The BLM completed a Mineral Potential Report dated June 22, 2011, that included both the Federal and non-Federal lands, which concluded "no foreseeable development potential" and "minerals should not be considered as having a contributable value to the properties." The mineral estate on the non-Federal land is automatically withdrawn from the mineral laws upon acquisition by the United States.

1. Federal Land Legal Description, Reservations, Outstanding Rights, and Conveyance Instrument

a. Conveyance via Quitclaim Deed (QCD)

The United States issues QCDs for Federal land previously conveyed out of Federal ownership by a patent and subsequently reconveyed to the U.S. In this case, the Federal land was previously conveyed out of Federal ownership by a Railroad Grant Patent 25 (dated December 17, 1895) and was later reconveyed back to the United States pursuant to the Act of June 9, 1916 (39 Stat. 218), as revested Oregon & California (O&C) lands.

b. Legal Description

The United States will convey the fee simple estate of the Federal land to the Rowletts via a QCD with the following legal description:

Government Lot 2 in Section 5 of Township 40 South, Range 4 East of the Willamette Meridian, Jackson County, Oregon.

c. Reservations and Outstanding Rights

The QCD will include the following reservation to the United States:

A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

The QCD for the Federal land will contain and be subject to the following restrictive covenant running with the land:

It is the intent of the Parties to this Quitclaim Deed that the two cultural sites identified by the United States as eligible for listing on the National Register of Historic Places (NRHP) on the Federal land to be conveyed will be afforded due consideration and protection in perpetuity from any undertaking or action that may alter, directly or indirectly, any of the characteristics of the sites that qualify the sites for inclusion in the NRHP. Therefore, Donald and Jean Rowlett (Grantee), hereby covenants for itself, its successors and assigns in perpetuity that, conveyance of the property identified in this Quitclaim Deed is subject to the following restrictions which constitute a covenant running with the land:

The locations of an historic cemetery and a portion of the Applegate Trail are identified on the Exhibit A – Deed Restriction Map, attached hereto and made a part hereof. No maintenance or development of any kind (including but not limited to building, farming, mining, etc.) shall occur within that portion of the Applegate Trail identified on the Exhibit A without further consultation and concurrence of the Oregon State Historical Preservation Officer. The blazed

trees along the trail in the location shown on the attached Exhibit A shall not be disturbed. Use of the cemetery for burials by the Grantee or successors and assigns, including the burial of new remains is not considered “maintenance or development” as restricted above, provided that the existing gravesites and headstone markers are protected. If any remains are inadvertently disturbed during new burials, those remains shall be immediately re-interred into their original location.

There are no unpatented mining claims, withdrawals, or oil and gas leases on the Federal land.

There is one existing road right-of-way grant (OR 44944) issued to the Rowletts that includes the portion of road across the Federal parcel. Once the exchange is complete, the BLM will modify the grant to delete the portion of road crossing the Rowlett’s new ownership, thereby subsuming the outstanding right-of-way into the Rowlett’s land ownership.

There is a current BLM grazing lease (No. 10137) held by Mr. Rowlett for five (5) animal unit months (AUMs). Pursuant to the Act, the Rowletts will donate this lease to the United States.

d. Water Rights

There is an existing water right for which the place of use includes the Federal land (Case 122, Claim 171). Since the claimant is Donald E. Rowlett, conveyance of the water right to the new owner is not required.

2. Non-Federal Land Legal Description, Reservations, Outstanding Rights, and Conveyance Instrument

a. Final Legal Description and Conveyance Instrument

The Rowletts will convey to the United States the fee simple estate via a General Warranty Deed with the following legal description:

A parcel of land being a part of original government lots 2 and 3, section 18, T. 40 S., R. 4 E., more particularly described as:

COMMENCING at the NE 1/16 sec. cor. of sec. 18, Township 40 South, Range 4 East, Willamette Meridian, Oregon; thence N. 0°20’38” W., on the N. and S. center line of the NE 1/4 of sec. 18, 997.88 feet to corner No. 1, Parcel A and **Point of Beginning**; thence N. 87°28’05” W. on line 1-2, Parcel A, 794.19 feet to corner No. 2, thence N. 70°44’27” W., on line 2-3, Parcel A, 136.30 feet to corner No. 3; thence S. 80°05’46” W. on line 3-4, Parcel A, 70.93 feet to corner No. 4; thence S. 72°55’21” W. on line 4-5, Parcel A, 420.95 feet to corner No. 5; thence S. 60°17’15” W. on line 5-6, Parcel A,

107.88 feet to corner No. 6; thence S. 43°16'07" W. on line 6-7, Parcel A, 335.55 feet to corner No. 7; thence S. 34°51'26" W. on line 7-8, Parcel A, 783.64 feet to corner No. 8, on the E. and W. center line of the NW 1/4 of sec. 18; thence N. 89°51'26" W. on line 8-9, Parcel A, identical with a portion of the E. and W. center line of the NW 1/4 of sec. 18, 482.00 feet to corner No. 9, identical with the NW 1/16 sec. cor. of sec. 18; thence N. 0°17'43" W. on line 9-10, Parcel A, identical with the N 1/2 of the N. and S. center line of the NW 1/4 of sec. 18, 1507.62 feet to corner No. 10, identical with the W 1/16 sec. cor. of secs. 7 and 18; thence S. 87°07'25" E., on line 10-11, Parcel A, identical with the line between secs. 7 and 18, 1331.80 feet to corner No. 11, identical with the 1/4 sec. cor. of secs. 7 and 18; thence S. 87°25'49" E., on line 11-12, Parcel A, identical with the line between secs. 7 and 18, 1324.50 feet to corner No. 12, identical with the E 1/16 sec. cor. of secs. 7 and 18; thence S. 0°20'38" E., on line 12-1, Parcel A, identical with a portion of the N. and S. center line of the NE 1/4 of sec. 18, 385.99 feet to corner No. 1, Parcel A, and point of beginning, containing 46.00 acres, more or less.

Upon acquisition by the United States, the land description will be designated as:
Parcel A, Section 18, Township 40 South, Range 4 East, Willamette Meridian, Jackson County, Oregon

b. Description from Legislation and Final Configuration

The Act (Section 1401, Subtitle E) contains the following description for the non-Federal parcel:

(12) ROWLETT PARCEL. The term "Rowlett parcel" means "the parcel of approximately 40 acres of private land identified as 'Rowlett Offered,'" as generally depicted on the Box R Ranch land exchange map.

The Exhibit B legislative map depicts the non-Federal parcel as the referenced "Rowlett Offered" but the Act did not contain any specific legal description. The BLM Master Title Plat (MTP) properly described the parcel depicted on the legislative map as:

Township 40 South, Range 4 East, Section 18, Government Lot 3, Willamette Meridian, Jackson County, Oregon.

The BLM's MTP notes this Government Lot 3 as containing 44.41 acres. The BLM and the Rowletts subsequently agreed to slightly alter the configuration of the non-Federal parcel to: (1) avoid an existing developed commercial rock pit which slightly encroaches onto Lot 3, (2) include in the non-Federal parcel additional riparian habitat along Keene Creek and Lincoln Creek which extends into the neighboring Govt. Lot 2, and (3) to identify options of different acreage if needed to equalize values. The parties agreed to appraise three parcel size options, with the final selection being a parcel containing 46.0 acres and being the closest in size and valuation to the Federal parcel of 46.39 acres. Both parties agree that the final description encompasses most of the original Government Lot 3 and that the inclusion of additional fish-bearing riparian habitat

increases the public benefit.

c. Conveyance Instrument, Rights, and Reservations

There will be no reservations or third party rights in the deed to the United States.

CONSULTATION AND COORDINATION

The Medford District BLM consulted with designated tribal representatives by letters to the Klamath Tribes and the Quartz Valley Indian Reservation Tribes and received no response or comments on the proposed exchange.

The BLM received notice, dated April 21, 2015, from the Oregon State Historical Preservation Office (SHPO) which concurred with the BLM's finding that the land exchange would have no adverse effect on the eligible sites or any known archeological sites, provided that the exchange include a restrictive covenant in the deed to protect two archaeological/historical properties located on the Federal parcel in the exchange: (1) the Pinehurst Cemetery and (2) a segment of the Applegate Trail. The restrictive covenant to be included in the QCD is included in the "Decision" Section above (Item 1.c.).

The BLM also consulted and conducted field surveys with the Oregon Historic Trails Advisory Council, Oregon-California Trails Association, and the Oregon Commission on Historic Cemeteries. They all concurred with the exchange, provided the QCD for the Federal land be conveyed with the a restrictive covenant to protect the sites.

PUBLIC INVOLVEMENT

The BLM published a Notice of Exchange Proposal (NOEP) in the *Medford Mail Tribune* on September 10, 17, and 24, 2013, and on October 1, 2013. The BLM also mailed the NOEP to the congressional delegation, state legislators, local government officials, authorized users, adjacent landowners, and other interested parties.

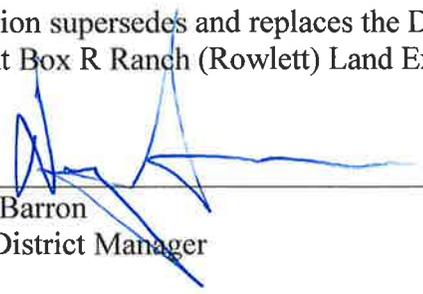
The first publication of the NOEP initiated the public scoping period which ended on October 25, 2013. The BLM released the Environmental Assessment (EA) for public review and posted it on the Medford District's website on April 16, 2014. The EA comment period ended May 16, 2014. The BLM received no comments. A revised EA and FONSI were published with the comment period ending June 16, 2015. No comments were received.

IMPLEMENTATION PERIOD

Implementation of this decision for the land exchange will occur upon the expiration of a 45-day protest period initiated by the publication of a Notice of Decision (NOD) (43 CFR 2201.7-1) and the resolution of any protests.

APPROVAL OF AUTHORIZED OFFICER

This decision supersedes and replaces the Decision Record for the Cascade-Siskiyou National Monument Box R Ranch (Rowlett) Land Exchange (OR 66137 FD/PT), dated July 17, 2014.



Dayne C. Barron
Medford District Manager

Date

08 March 2016