

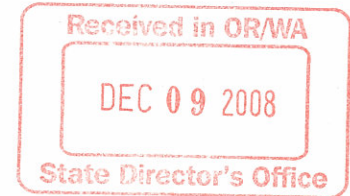


THEODORE R. KULONGOSKI
Governor

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BUREAU OF LAND MGMT.

December 8, 2008



Mr. Edward Shepard, State Director
Bureau of Land Management
333 SW 1st Avenue, 6th Floor
Portland, OR 97204

Dear Mr. Shepard:

Please accept this letter as my consistency review of the Proposed Resource Management Plan (PRMP or "plan") for the Oregon and California Lands (O&C). My comments address the PRMP's consistency with state and local plans, programs and priorities as well as the twelve principles I stated on January 10 of this year when I commented on the draft plan and draft environmental impact statement.

First, let me commend you and your staff for the hard work you have all undertaken to develop a plan for the O&C lands. I share your commitment to the completion of a plan that establishes certainty for Oregon's counties relative to funding for local governments, assures a continued and sustainable stream of wood products to contribute to local economies, and contributes the full range of other social and ecological benefits that these publicly-owned lands must continue to provide. That is why I signed a cooperating agency memorandum of agreement with your agency on December 1, 2005, committing my office and several state agencies to participate in the plan's development. It is also why I am undertaking this review with a continued commitment to assist the Bureau in adoption of a plan that meets my twelve principles, that is right for the O&C lands, that meets the needs of our counties and Oregonians in general and that can gain the support of our citizens and especially our members of Congress.

Following are my comments and concerns relative to the twelve principles I identified for the plan earlier this year:

Principle 1: The final plan must be fully implemented through adequate leadership, and supported with adequate human and financial resources:

Comments: I have serious concerns as to whether we will be able to achieve the full implementation of this plan, and thus, a great deal of uncertainty as to whether this principle will be met. The plan does not address the issues I raised relative to the need for the plan to be fully institutionalized within the Bureau of Land Management (BLM) and supported with adequate

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resources both within BLM and cooperating federal agencies. I will explain further my concerns relative to cooperating federal agency support in my comments on Principle Number 4. The issue of full institutionalization of the plan can be addressed through plan revisions that identify how BLM will direct its staff and operating priorities to assure implementation. However, the larger issue of obtaining support for implementation and subsequent appropriations from Congress, thereby offering a reasonable chance for planned management activities to occur without being sidetracked by disagreement, litigation or administrative appeals, is of great concern to me. I have serious doubts that there is the necessary support from our members of Congress and even greater doubt that the new federal Administration will be committed to this plan without a significant role in its adoption.

Principle 2: A robust and detailed monitoring strategy supported by appropriate research must be implemented as a key part of BLM's plan. The monitoring strategy must examine key questions related to the implementation, effectiveness and validity of plan assumptions and support adaptive management.

Comments: In my comments on Principles Number 5 and 12, I will address specific concerns and recommendations relative to water quality and to addressing the effects of rapid climate change. In general, the PRMP identifies monitoring relative to whether planned management has been implemented but generally lacks information on monitoring planned to assess the effectiveness of management activities. It is my understanding that BLM presently undertakes a number of programs for effectiveness monitoring and intends to continue those. It would be helpful if the PRMP would more clearly point those out and identify how such monitoring will inform planned adaptive management.

Principle 3: The BLM's plan must produce predictable and sustainable timber harvest as well as non-timber resources and values that contribute to the economic stability of the Oregon and California Lands Act counties.

Comments: I recognize that significant changes have been made to the Western Oregon Plan between the original and final drafts to address concerns that the State has raised through our collaborative relationship. Significant improvements have been made to address environmental concerns while still providing the economic benefits and local government funding critical to Oregon. While estimated annual timber harvest has been reduced from 727 million board feet (mmbf) in the draft to 502 mmbf in the PRMP, this harvest level is an increase over the allowable cut of 268 mmbf under the NW Forest Plan and an actual harvest of 80 to 130 mmbf in recent years. The projected revenues to counties will be \$75 million from the PRMP or about 65 percent of 2005 Secure Rural Schools payments for O&C lands. I also appreciate the sensitivity that BLM has shown over concerns about timber harvesting methods. Final harvest acres have been reduced under the PRMP, more of the volume will come from commercial thinning, and areas in southern Oregon will be managed using uneven aged management.

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While I am generally supportive of the direction the PRMP takes with regard to harvest, my concern as to the feasibility of implementing this plan also applies to the targeted harvest levels. The decision to defer Section 7(a)(2) consultation under the Endangered Species Act (addressed below), the reduction of riparian conservation areas without a coincident commitment to monitoring and assurances that water quality and aquatic habitat will be maintained or enhanced over current levels (also addressed below), and the potential for the new Administration and Congress to shift federal land management to a more protective environmental orientation are of concern as we strive to increase harvest levels on these lands. Consideration must be given by BLM to a phased approach to increasing harvest that takes into account the following: 1) Public sensitivity to clearcutting and harvest of older trees in areas of complex forest structure, 2) The philosophy and guidance of a new presidential administration, 3) The need to build the confidence and support of the Oregon Delegation and Congress for increased harvest levels which will then translate into appropriations to BLM, 4) The fact that reauthorization of the Secure Rural Schools and Community Self-Determination Act gives us additional time to address factors 1 through 3.

Principle 4: The BLM's approach to managing habitat must comply with the federal Endangered Species Act, aid in the recovery of listed species, and complement strategies for managing state-owned lands.

Comments: The PRMP's approach to the federal Endangered Species Act (ESA) is my greatest concern as to whether the plan is consistent with my twelve principles, and at the same time complies with federal and state laws. While the plan was under development, I had every reason to believe that the PRMP would fully address ESA issues and BLM's obligations under federal and state law. Both the United States Fish and Wildlife Service and the National Marine Fisheries Service (Services) were participating as cooperators in the planning process. Further, under a 2000 Memorandum of Agreement between BLM and the Services, there is a clearly-stated commitment by BLM to completing consultation with both Services Under Section 7(a)(2) of the ESA as part of the preparation of programmatic and landscape scale plans like the PRMP. Therefore, I was surprised to learn that the decision was made late in the planning process to not complete consultation, to instead issue a finding of "no effect" and to defer consultation to a project-specific approach as the plan is implemented over time.

The decision by BLM that consultation is not required for the PRMP appears to have been made unlawfully and is inconsistent with the ESA. Such a decision requires the concurrence of the Services and should have been made based upon a biological assessment prepared by BLM. The letters offered by the Services to you in response to your notice to them to defer consultation to a later time do not represent concurrence. Further, no biological assessment was prepared that would support your decision or the concurrence of the Services.