

Decision Record

NEPA Register Number: DOI-BLM-OR-P040-2013-0022-CX

Title of Action: Withdrawal Revocation – Power Site Reserve (PSR) 24

Serial/Case File #: OR-19046

BLM Office: Central Oregon Resource Area, Prineville, Oregon

Compliance: This Federal parcel in T. 8 S., R. 19 E., Section 3, (NE¼SW¼) Lots 8 and 9; is affected by a withdrawal for PSR 24 created by Executive Order (EO), dated 7/12/1910. Such withdrawals are currently made inoperative and ineffectual by Section 7 of the Wild and Scenic Rivers Act (WSRA), (16 USC 1278), which directs the Federal Energy Regulatory Commission (FERC) to not license projects in areas designated by the WSRA, and has the effect of making the withdrawal inoperative. In addition to this revocation action, BLM is planning to consult with FERC about the revocation of all such withdrawals as it affects the John Day Wild and Scenic River (WSR).

Public Law 111-11, the Omnibus Public Land Management Act of 2009 provided for a series of land exchanges and the designation of the Spring Basin Wilderness Area in Wheeler County along the east bank of the middle segment of the John Day River in the Bureau of Land Management's Prineville District, Oregon. Section 1754(a) of the Omnibus Act provides for the land exchange with the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO). Revocation of the withdrawal will remove an encumbrance on one of the subject parcels and facilitate this legislated land exchange. This withdrawal is outside of the designated wilderness boundary.

The Land Use Plans (LUPs) recognize the lands along the John Day River that have been withdrawn by the Federal Energy Regulatory Commission for potential hydroelectric projects and by the U.S. Geologic Survey (USGS) for power site purposes. There are no related developments or current proposals along this river segment. The USGS withdrawals are now administered by the BLM. The LUP recognizes that revocation, termination or modification will be determined by the withdrawal review process.

The Two Rivers Resource Management Plan (RMP) of 1986 was amended by the John Day River Management Plan, Two Rivers, John Day and Baker RMP Amendments, dated February 2001. The Proposed John Day Basin RMP allows for the conveyance of the subject Federal lands. The review of the withdrawal is in conformance with the above land use plans.

The John Day River system is noted under two river designation programs, the National Wild and Scenic Rivers Act (WSRA) and the Oregon Scenic Waterways Act. These laws emphasize

the protection of scenic, historic, natural and recreational qualities of the river. The land exchange includes lands between river miles 132 to 111. This segment of the John Day River is classified by the BLM as recreational and by the Oregon Scenic Waterways Act as a scenic river area. The Solicitor's Office advises BLM that the Act specifically authorizes this land exchange, and thus the Act overcomes the general ban on the transfer of land within WSRA corridor.

In 2005, the Oregon State Land Board adopted the findings and conclusions of the John Day River navigability study that determined the John Day River is navigable from river miles 10 to 184 and asserts a state claim to that section of the river below the ordinary high water line. The Oregon Court of Appeals issued a decision supporting the navigability findings.

Proposed or selected alternative

The lands are no longer needed for the purpose for which they were withdrawn. This parcel has been designated for conveyance by land exchange to the CTWSRO, as directed by the Omnibus Public Land Management Act of 2009. The revocation is an administrative action that will facilitate this legislated land exchange.

There are no alternatives or mitigating measures recommended. The Decision to revoke the withdrawal should be implemented prior to conveyance of the parcel by the legislated exchange.

Public, tribal and other involvement

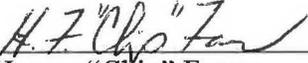
Since passage of the Omnibus Public Land Management Act of 2009 extensive coordination has taken place with several adjacent landowners including the CTWSRO to implement the land exchange provisions of the Act. Two Memorandums of Agreement have been initiated outlining roles and cost sharing responsibilities. Upon approval of the Feasibility Package by the Director, an Agreement to Initiate a Land Exchange (ATI) will be signed and the Notice of Exchange Proposal (NOEP) will be published to solicit public involvement. Coordination has taken place with several State and local agencies including the State Scenic Waterways, the Oregon Department of Water Resources, the Wheeler and Wasco County Assessor's Office and the respective Planning Departments. Coordination continues with Bonneville Power Administration (BPA) as a stakeholder in the Pine Creek Conservation Area (PCCA). The BPA continues to provide annual operations funding for the PCCA management as a fish, wildlife, and watershed mitigation site, satisfying in part the BPA's legal responsibilities to mitigate for construction and inundation caused losses of fish and wildlife habitat associated with the construction of the John Day Dam on the Columbia River.

Rationale for the Decision

The Decision is to revoke the withdrawal of PSR 24 as it affects the NE¼SW¼ (Lots 8 and 9) of Section 3, T. 8 S., R. 19 E., Willamette Meridian. The lands are no longer needed for the purpose for which they were withdrawn. This parcel has been designated for conveyance by land exchange to the CTWSRO, as directed by the Omnibus Public Land Management Act of 2009. The revocation is an administrative action that will facilitate this legislated land exchange.

Protest and Appeal Opportunities

This decision constitutes my final decision and may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (3050 N.E. Third Street, Prineville, OR 97754) within 30 days from receipt of this decision. Notice of appeal must be sent certified mail. The appellant has the burden of showing that the decision appealed from is in error. Any request for stay of this decision in accordance with 43 CFR 4.21 must be filed with your appeal.



Homer "Chip" Faver
Field Manager, Central Oregon Resource Area

4/16/13
Date