

Pacific City Joint Water Sanitary Authority Recreation and Public Purposes Lease

Final Decision and Decision Rationale

Environmental Assessment Number: DOI-BLM-OR-S060-2013-0006-EA

September 2015

United States Department of Interior
Bureau of Land Management
Salem District
Tillamook Field Office

Township 4 South, Range 10 West, section 19
Lots 1, 17, and 18, Willamette Meridian
Tillamook County, Oregon

Applicant Name: Pacific City Joint Water Sanitary Authority

Responsible Official: Karen Schank, Field Manager
Tillamook Resource Area
4610 Third St
Tillamook, OR 97141
(503) 815-1127

For further information, contact: Traci Meredith at (503) 315-5991, tmeredit@blm.gov



As the Nation's principal conservation agency, the Department of Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering economic use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interest of all people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. administration.

BLM/OR/WA/AE-15/040+1632

1.0 Introduction

The Bureau of Land Management (BLM) completed the *Pacific City Joint Water Sanitary Authority (PCJWSA) Recreation and Public Purposes (R&PP) Lease Environmental Assessment (EA) and Finding of No Significant Impact (FONSI)*. This EA analyzed PCJWSA's proposed construction and development actions that will occur under the new long-term R&PP and Communication Site Leases and Right of Way (ROW) Grant amendment on BLM lands in Township 4 South, Range 10 West Section 19, lots 1, 17, and 18 in Tillamook County, Oregon. This Decision Record (DR) incorporates by reference the PCJWSA R&PP Lease EA.

I have signed a Finding of No Significant Impact on September 9, 2015 and made the EA available for public review from April 30, 2014 through May 30, 2014 (*DR section 7.0*).

2.0 Decision

I have decided to implement the project as described in the Proposed Action (*EA section 2.2, pp. 16-19*) with the following clarifications, hereafter referred to as the "selected action." The selected action is shown on maps in the DR, Appendix 1. This decision is based on site-specific analyses in the EA described above, the supporting administrative record, public and agency comments, as well as the management direction contained in the *Salem District Resource Management Plan* (May 1995), which are incorporated by reference in the EA. The following is a summary of the selected action:

The BLM will issue an R&PP Lease and a Communication Site Lease to PCJWSA, and also amend a currently existing ROW Grant between the BLM and PCJWSA. The selected action will enable PCJWSA to do several things:

- Develop an approximately 4.2 acre evacuation area for PCJWSA's use during times of emergency. The development would include the construction of an approximately 240 square foot operations/evacuation shelter in the evacuation area.
- Construct a 600-foot gravel access road to the evacuation area.
- Develop a Supervisory Control & Data Acquisition (SCADA) monitoring system to facilitate remote monitoring and operation of the Pacific City water system and wastewater treatment facilities. The development would include the construction of a communication tower that would not require guywires.
- Construct fence(s) to protect water system wellheads in compliance with Oregon Drinking Water Program regulations.
- Rebuild or replace existing well buildings.
- Develop pedestrian hiking trails with interpretation signage.

The selected action incorporates the project design features described in the EA (pp. 19-23). These design features incorporate site-specific measures to avoid or minimize resource impacts.

Clarifications to the selected actions as described in the EA are:

- **“continued operations” (EA p. 16):** In section 2.2.1 of the EA, the text indicates that *the R&PP Lease would provide an emergency evacuation area for PCJWSA’s continued operations of their wastewater and water treatment facilities...* This statement would not be true in the case of a tsunami emergency where the water system and wastewater treatment facilities would be inundated by the tsunami. In that case, the plants would be rendered inoperable. “Continued operations” is intended to mean that if the facilities are still operable they can be managed from the emergency evacuation area and emergency response operations and repairs can be initiated.
- **Evacuation Area Developments (EA p. 17):** The evacuation area is intended for PCJWSA’s use for the quick evacuation of personnel, equipment and vehicles to an area above the expected tsunami inundation zone as shown on the Tsunami Evacuation Route brochure for Pacific City (http://www.oregongeology.org/pubs/tsubrochures/PacificCityEvacBrochure-12-12_onscreen.pdf). The development would include the construction of a shelter that can be used as a command center during times of emergency, consistent with Pacific City’s currently existing emergency response plan. The constructed shelter is intended for PCJWSA’s use only.
- **“above the high water level” (EA p. 17):** means above the expected tsunami water level.

3.0 Alternatives Considered

The BLM has had many interactions with the public and stakeholders regarding this project and has developed the proposed action in response to issues raised during scoping. Project design features were developed to specifically minimize conflicts regarding possible alternative uses of the available resources (section 102(2) (E) of the National Environmental Policy Act (NEPA)). Based on the level of public interest and support and the fact that design features would minimize effects, two alternatives, the Proposed Action and the No Action would provide the appropriate level of analysis to inform the Decision.

4.0 Decision Rationale

Considering public comment, EA content, the supporting administrative record, and management direction contained in the RMP, I have decided to implement the selected action, as described in *DR section 2.0*. The following is my rationale for this decision.

The No Action Alternative was not selected as it does not meet the purpose and need for action. It reduces PCJWSA's ability to provide residents and visitors with continued drinking water and wastewater treatment services and comply with Oregon Drinking Water Program regulations. The BLM parcel is directly adjacent to PCJWSA's wastewater and water treatment facility serving the unincorporated communities of Pacific City/Woods, which is within the Local Cascadia Earthquake and Tsunami Evacuation Zone on land previously patented to them by the BLM. The adjacent BLM parcel rises to a higher elevation outside of the tsunami inundation zone. No other unoccupied parcels adjacent to PCJWSA's current facility are outside the inundation zone.

Pacific City/Woods has become a popular summer home and tourist community with a Community Plan that has identified a vision to create an interconnected bicycle/pedestrian system with loops, and off-road bicycle/pedestrian facilities that connect destinations and provide for recreational users. The BLM parcel already experiences substantial dispersed recreational use, and is uniquely situated to provide pedestrian trails directly adjacent to residential and commercial development.

The Selected Action:

- Fully meets the purpose of and need for action described by enabling PCJWSA to better maintain drinking water and wastewater treatment services during times of emergency, more fully respond to emergencies and initiate recovery actions, protect water treatment facilities, maintain and improve drinking water wells in compliance with the Oregon Drinking Water Program, and provide recreational opportunities (EA p. 7).
- Complies with the Salem District Record of Decision and Resource Management Plan, which directs the BLM to provide a wide range of developed and dispersed recreation opportunities; and to respond to public land use proposals for R&PP Leases and rights-of-way for utilities (EA section 1.4, p. 8).

5.0 Compliance with Direction

The PCJWSA R&PP Lease, Communication Site Lease, and the amendment of the existing Right-of-Way grant for the water wells, have been designed to conform to the following documents, which direct and provide legal framework for management of BLM-administered lands within the Salem District. All of these documents are available for review at the Tillamook Resource Area Field Office:

- *Salem District Record of Decision and Resource Management Plan, May 1995 (ROD/RMP):* The ROD/RMP has been reviewed and it has been determined that the Pacific City Joint Water Sanitary Authority R&PP Lease, Communication Site Lease, and amendment of the water well ROW grant comply with management goals, objectives, direction, and standards and guidelines of the Plan. Implementing the ROD/RMP is the reason for doing these activities (ROD/RMP p.1-3).

- The Salem District RMP is the plan of record for the Salem District. The RMP incorporated land use allocations and standards and guidelines from the *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl and Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species within the Range of the Northern Spotted Owl*, April 1994 (the Northwest Forest Plan, or NWFP) (EA p. 8-9).
- *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*, January 2001.
- *Revised Recovery Plan for the Northern Spotted Owl, (Strix occidentalis caurina)*. U. S. Fish and Wildlife Service, 2011.

The analysis in the PCJWSA R&PP Lease EA is site-specific and tiers to analyses found in the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement (RMP/FEIS)*, September 1994. The RMP/FEIS includes the analysis from 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 (NWFP/FSEIS)*, February 1994. In addition, the EA is tiered to the *Final Supplemental Environmental Impact Statement for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (S&M FSEIS)*, November 2000).

Survey and Manage Review: The project is consistent with the 2001 *Record of Decision (ROD) and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines, as incorporated into the district Resource Management Plan.*

This project uses the species list and categories from the 2001 ROD. At the time this project was initiated, the Bureau of Land Management (BLM) was involved in legal proceedings on the 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. Due to uncertainties surrounding these proceedings, this project utilized the last valid ROD, specifically the 2001 ROD and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (not including subsequent Annual Species Reviews). Details of the project surveys are described below:

Wildlife

No pre-clearance Survey and Manage mollusk surveys were needed since the selected actions/development activities affect such a small portion of mollusk habitat that it would not be significant enough to change the persistence of the species at the site. No pre-

clearance red tree vole surveys were needed because no potentially suitable habitat would be removed and/or altered as a result of the selected action.

Botany

Botanical surveys (including Survey and Manage surveys) for lichens, bryophytes, and vascular plants were completed on March 14, 2014. The area surveyed consisted of the 4.5-acre area that includes the proposed access road and evacuation area. No Survey and Manage or Special Status Plant species were found. Surveys were not completed throughout the remaining 70 acres based on design features that will protect already known sites of *Carex macrocephala* (big head sedge). BLM botanists will assist the PCJWSA in trail location to prevent damage to existing populations of *Carex macrocephala* and additional plant surveys of the trail system will occur at that time.

6.0 Public Involvement, Consultation, and Coordination

Public Involvement

Description of Prior Planning and Public Input Processes:

On April 17, 2009, PCJWSA submitted a formal application to the BLM for procurement of a lease for the land after the community began to engage in the discussion of the future of the BLM property.

Since 2010, PCJWSA, Nestucca Valley Community Alliance (NVCA), and Nestucca Valley Chamber of Commerce have shared concepts and drafts of this Recreation and Management Plan (For EA purposes, also known as the “plan of development” - POD) with local community groups at their regular meetings. In addition, they sent letters to the local homeowners associations inviting their attendance to these local meetings and their comments on this plan.

On September 6, 2011, PCJWSA discussed the plan with the Nestucca Valley Chamber of Commerce and PCJWSA’s Board of Directors.

On September 20, 2011, Pacific City/Woods Community Advisory Committee (PC/W CAC) and PCJWSA held a public meeting at Kiwanda Community Center to discuss the proposed POD for the parcel. Thirty people attended, including residents of Dory Pointe and Nestucca Ridge subdivisions, Cape Kiwanda RV Park, the Tillamook Lightwave property, the Perrine property owner, and the BLM. Summary notes and a list of attendees are contained in Appendix C of the April 2012 POD.

Formal Project Scoping:

Scoping for this project was conducted by means of a letter sent out to approximately 44 federal, state, and municipal government agencies, nearby landowners, tribal authorities, and interested parties on May 31, 2013. The local Pacific City Sun newspaper ran an

article in May 31, 2013 (Vol. 5, No. 160) with the same information. An electronic version of the letter was sent to individuals and interested parties on June 4, 2013. In that letter, a request was made to forward this information to additional individuals, interested parties, or recipients they felt would have interest in this project. In addition, the scoping letter was posted on the Salem District website and the project announced in eight publications of the quarterly Salem District Project Update since Spring 2013. The BLM received eight (8) comments during the scoping period, which generally support the proposed action; EA section 10 provides responses to those comments.

The scoping letter summarized PCJWSA's proposed development actions planned over the 25-year life of the lease. However, the EA only analyzed development actions within the first 10 years. Some development actions would not occur within the first 10 years such as the wastewater treatment facility expansion and/or relocation, installing of a new water reservoir, and additional recreation amenities. A new environmental analysis and decision will occur prior to PCJWSA implementing actions not covered under the EA. Development actions analyzed within the EA meet requirements of obtaining an R&PP Lease. Issuing the lease does not preclude the need for further environmental analysis.

Two scoping comment letters received from residents of Dory Pointe subdivision led to a meeting at the BLM Tillamook Office on November 2, 2013, to discuss proposed development actions. The BLM attended a public meeting at the Kiwanda Community Center on September 12, 2013 to hear the publics proposed plans for a comprehensive effort to increase livability in the Pacific City/Woods communities. Those residents attending the meeting had a better understanding of the proposed action and specific locations of development.

Internal scoping was conducted through Interdisciplinary Team (IDT) meetings, record searches, field reviews and the project planning process.

EA Comment Period, Comments, and Response to Comments

The BLM made the EA and an unsigned copy of the FONSI available for public review from April 30, 2014 to May 30, 2014 through mailing 52 and emailing 32 potentially affected or interested individuals, groups, and agencies. The Headlight Herald ran a legal public notice in the April 30 newspaper edition. In addition, the EA comment letter was posted on the Salem District website and the project announced in eight publications of the quarterly Salem District Project Update since spring of 2013. The BLM received eight (8) comment letters/emails during the EA comment period. None of the comments received were substantive, in that they did not question the accuracy of information; accuracy of, methodology for, or assumptions used for the environmental analysis; present new information relevant to the analysis; present other reasonable alternatives; or cause changes or revisions in one or more alternatives. All but one commenter were supportive of the proposed project.

One of the supportive commenters indicated that they believe that the evacuation area should be available to the public during a tsunami emergency. To clarify, the selected

action would not prohibit public use of any of the BLM land during a tsunami emergency. The only part of the evacuation area that would not be available for public use during an emergency would be the 240 sq. ft. shelter that would be constructed for PCJWSA's use as a command center during emergencies.

The one commenter, who is an adjacent neighbor to the BLM parcel, is not in favor of the proposed leases or ROW amendment. The concerns, and BLM responses to those concerns, are described below.

"We have been following the development of the lease application since the beginning. During this time, it has been up to us to discover what was proposed for the land behind us. An area, we were told upon purchasing, would remain public land. It seems there should be a better procedure when land use changes are being made to public lands to notify property owners that will be impacted by these changes".

BLM Response: The BLM parcel that is proposed for leasing by PCJWSA would remain public land for use and enjoyment of all people. The Recreation and Public Purposes lease is intended to provide for specific benefits to residents and visitors of Pacific City. The proposed leases have been in discussion with citizens and groups in the Pacific City area since before 2009 when the initial application for lease was filed. The commenter was directly involved with the BLM and PCJWSA at that time. Public meetings, including one in April of 2012, which the commenter attended, have occurred and the PCJWSA has been very open about the purpose of the proposed leases (R&PP and communication site leases) and ROW amendment.

"It is not that we oppose a trail system that would continue access to this land. But when such a project is dependent upon grants, donations, fundraisers and volunteers it leads me to wonder when it will become a potential new tax on our property to support it".

BLM Response: The Plan of Development for the R&PP lease includes proposed measures to address how the plan will be developed including coordination with two active 501 (c) (3) non-profit organizations. These organizations are dedicated to the erection and maintenance of public works, lessening the burden of government as well as management of a portion of the Tillamook Lightwave Property for community use. Questions regarding the taxation of citizens are beyond the scope of this decision.

"We totally understand the needs of PCJWSA to have more land available to them for future expansion or replacements of the current facility. We were informed at the meeting we had with you last November, it was not necessary for PCJWSA to lease the entire 77+ acres. We would favor a smaller parcel be available to them and leave the rest as public land open to public use".

BLM Response: It is not necessary for PCJWSA to lease the entire parcel specifically for administration of the water systems and wastewater treatment plant. A substantial portion of the lease area (northern portion) is for the benefit of the entire community of Pacific City/Woods as a green space affording recreational opportunities intended to improve the

livability of the area. The entire area included in the selected action would remain BLM land; the lease would be very specific regarding the types of activities that can occur under the lease, including most of the area being open to public use.

“We are very much opposed to fencing the wells beyond the existing fence. Even a split rail fence will be what we see from our windows. Since our house has been completed in 2007, we have never witnessed any abuse of the area near the wells. Wells, we now understand are back up wells”.

BLM Response: It is the BLMs understanding that fencing of the wells is required by Oregon Drinking Water Program regulation. The PCJWSA and BLM have met with the commenter and explained the requirement. The plan to use split rail fencing rather than other less visually appealing fencing is based on comments received throughout the planning process.

“If this lease is approved, and this becomes property of PCJWSA, will we be trespassing if we continue to use the “social” trails that already exist until the new trails are completed? We are assuming from the drawings, the trail that runs behind Dory Pointe will become a designated trail. It is only shown as existing trail. Will we have to go all the way around to the Light Wave property to access the trails??? Apparently, if we have a hunting license, we can walk freely through this parcel during hunting season and not be restricted to using the designated trails”.

BLM Response: The land considered in the selected action would remain BLM land under lease to PCJWSA. Only activities and actions defined in the lease would be allowed. With exception of a portion of the evacuation area, the land leased for recreation trails would be open to all of the public. The existing “social” trail would become part of the planned trail system. Residents that share a boundary with BLM land would continue to be allowed to access that proposed parcel from their residence as long as new trails are not developed and resource damage is not occurring.

Consultation and Coordination

Wildlife: United States Fish and Wildlife Service (USFWS)

The selected actions of issuing an R&PP Lease, amending an existing ROW Grant, and issuing a Communication Site Lease may affect, but are not likely to adversely affect, threatened or endangered wildlife species or habitats, including the northern spotted owl and the marbled murrelet. The project will remove a small percentage of spotted owl dispersal habitat, compromise the quality of suitable marbled murrelet habitat, and introduce a potential flight hazard for murrelets through the construction of the SCADA tower. On January 21, 2014, Section 7 consultation was completed through a project specific consultation presented to the Level 1 Team (terrestrial subgroup) for the North Coast Planning Province. The USFWS issued a Letter of Concurrence (FWS *reference*: 01EOFW00-2014-I-0104, 2014) which included a statement that should the eventual

design of the SCADA tower include guywires, ESA consultation with the USFWS would need to be reinitiated.

Fish: National Marine Fisheries Service (NMFS)

The selected action will not affect any fish species including Critical Habitat or Essential Fish Habitat for listed species therefore no consultation is required.

Section 106 Consultation with State Historical Preservation Office

Cultural Resource surveys were conducted on the parcel located in Township 4 South, Range 10 West, section 19 in compliance with Appendix A of the *Protocol for Managing Cultural Resources on Lands Administered by the Bureau of Land Management in Oregon*. No cultural resources were found (Greatorex 2013-2014). An inventory report of findings was completed and mailed to the State Historic Preservation Office as well as filed within the Salem District.

Tribes Consulted

A letter was sent to Tribal representatives of both the Confederated Tribes of Grand Ronde and the Confederated Tribes of Siletz on May 31, 2013 asking for their input on the proposed project. They also received a letter on April 30, 2014, stating the EA and draft FONSI were available for comment. No comments were received from either tribe.

7.0 Conclusion

Review of Finding of No Significant Impact

I reviewed the comments on the EA and draft FONSI and no information was provided that lead me to believe the analysis, data, or conclusions are in error or that the selected action needs to be altered. There are no significant new circumstances or information relevant to the selected action or associated environmental effects. I have determined in the Finding of No Significant Impact (FONSI, September 2015) for the PCJWSA R&PP Lease, Communication Site Lease, and amendment of the existing water well Right-of-Way grant, that the selected action will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area, and that no environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. There are no site-specific impacts that would require supplemental/additional information to the analysis done in the *Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994 (RMP/FEIS). Therefore, an environmental impact statement is not needed and therefore will not be prepared.

Right of Appeal – R&PP Lease, Communication Site Lease, Right-of-way Grant Amendment

The decision described in this document to issue an R&PP Lease, Communication Site Lease, and modify an existing Right-of Way Grant may be appealed to the Interior Board of Land Appeals (Board or IBLA) according to 43 CFR Part 4 – Department of Interior Hearings and Appeals Procedures, found on the internet at:

<http://www.gpo.gov/fdsys/pkg/CFR-2002-title43-vol1/xml/CFR-2002-title43-vol1-part4.xml>.

Appeals can be made by those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a “party to the case” (See 43 CFR Subpart E 4.410). If an appeal is taken, a written notice of appeal must be filed with Karen Schank, Tillamook Field Manager, 4610 Third Street, Tillamook, OR 97141 by close of business (4:30 p.m.) October 16, 2015. Only signed hard copies of a notice of appeal received in the Tillamook Field Office at the address above will be accepted. Appeals faxed, e-mailed, or sent by any other electronic format will not be considered. In order to request a stay of the decision, an appellant must file a petition for stay at the same time as the appeal in accordance with 43 CFR Subpart B 4.21(b).

Implementation

R&PP Lease and Communication Site Lease:

The Tillamook Field Manager plans to implement these actions sometime after the 31st day beyond the date of the posting of this decision on the Salem District Planning web page, which can be found on the internet at:

<http://www.blm.gov/or/districts/salem/plans/index.php>.

Right-of-Way Grant Amendment:

By BLM regulation right-of-way grants and amendments become effective immediately at the time that the Authorized Official signs the Decision. Appeals can still be made per 43 CFR Part 4 after the Decision is in effect.

For additional information, contact Traci Meredith (503) 315-5991 or Andy Pampush at (503) 815-1143, Tillamook Field Office, 4610 Third St., Tillamook, Oregon 97141.

Approved by: _____



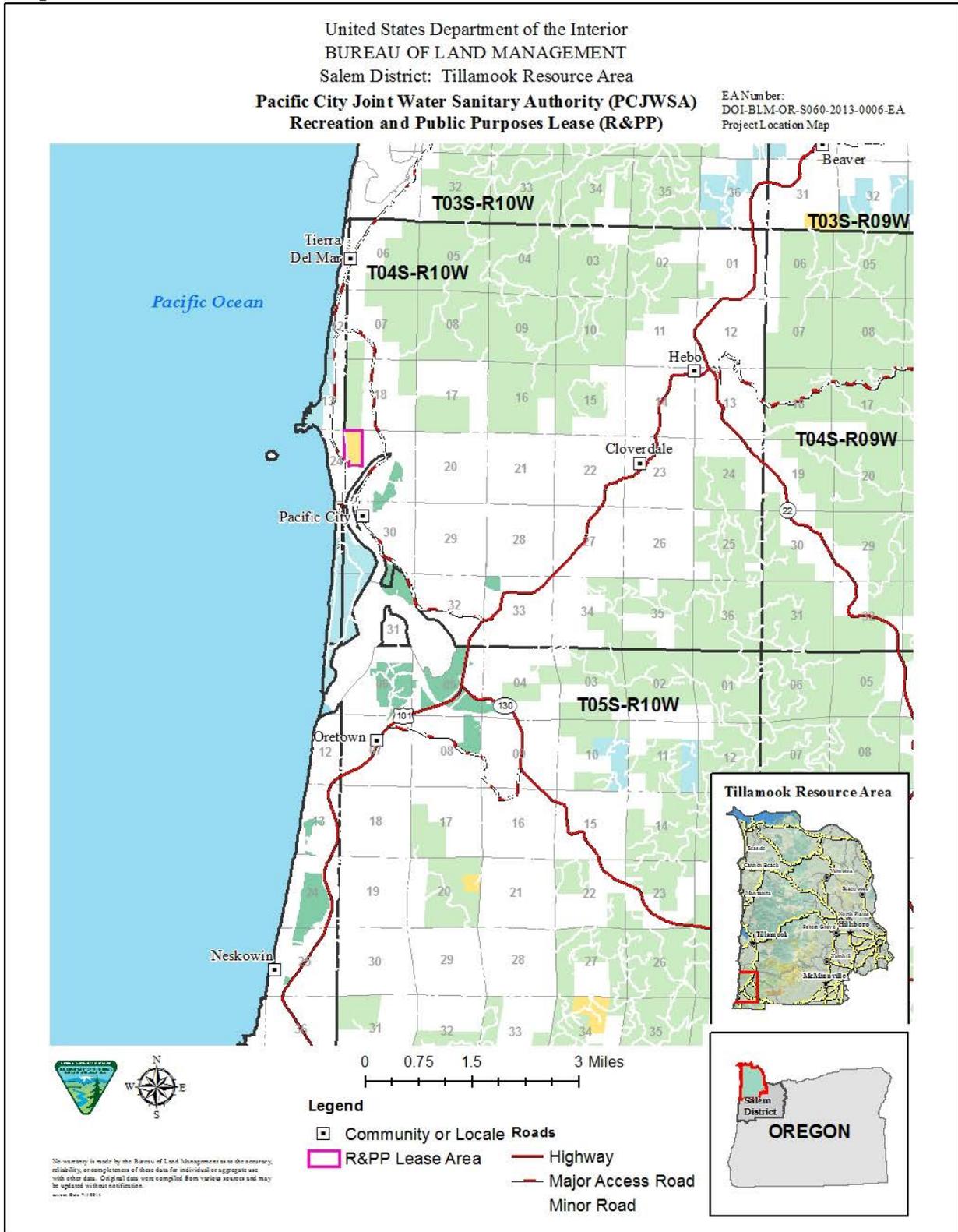
Karen Schank, Field Manager
Tillamook Field Office

9/9/15

Date

Appendix 1: Maps

Map 1: Lease Location



Map 2: Selected Action

