
Lands and Realty

Key Points

- Under the Proposed RMP and all alternatives, BLM-administered lands would be generally available for rights-of-way. Alternative D would most constrain the BLM's ability to grant rights-of-way compared to the current conditions.

Issue 1

How would the alternatives affect land tenure in western Oregon?

Summary of Notable Changes from the Draft RMP/EIS

This analysis of right-of-way avoidance areas and exclusion areas does not present acreage by specific criteria (e.g., ACECs and Recreation Management Areas). These specific criteria have substantial geographic overlap, creating confusion and errors related to the acreage associated with each specific criterion. Instead, the BLM identifies the specific criteria and presents the total acreage for avoidance areas and exclusion areas for all alternatives and the Proposed RMP.

Summary of Analytical Methods

The BLM identified the number of acres in each alternative and the Proposed RMP that would be included in each land tenure zone and considered the potential impact on the BLM's land holdings in western Oregon taking into account recent trends in land acquisition, exchange, and disposal.

Background

Through RMP-level decisions, the BLM places all of BLM-administered lands into one of the following three Land Tenure Zones:

- Lands in Zone 1 are retained under BLM administration
- Lands in Zone 2 are available for exchange to enhance public resource values, improve management capabilities, or reduce the potential for land use conflict
- Lands in Zone 3 are available for disposal using appropriate disposal mechanisms

Across the action alternatives and the Proposed RMP, the BLM used the following criteria to determine land tenure zones:

- Zone 1 lands would include:
 - Designated and Suitable Wild and Scenic River corridors
 - Wilderness Areas
 - Wilderness Study Areas
 - National Trail management corridors
 - Areas of Critical Environmental Concern (including Research Natural Areas and Outstanding Natural Areas)
 - Congressionally designated Outstanding Natural Areas
 - Lands acquired with Land and Water Conservation Funds

In addition to the criteria above, the Proposed RMP also would include District-Designated Reserve – Lands Managed for their Wilderness Characteristics in Zone 1.

- Zone 2 lands would include all BLM-administered lands not listed in the descriptions of both Zone 1 and Zone 3 lands.
- Zone 3 lands would include:
 - Lands that are either not practical to manage or are uneconomical to manage because of their intermingled location and non-suitability for management by another Federal agency
 - Survey hiatuses – an area between two surveys where the record describes them to have one or more common boundary lines with no omission
 - Unintentional encroachments – an unintended unlawful and adverse intrusion within the boundary of BLM property where the BLM has discretion to determine if the lands are suitable for disposal

Appendix K provides information on criteria for specific land tenure adjustments, including specific acquisition, exchange, and disposal criteria.

Affected Environment

Since the 1995 RMP, the BLM has acquired 8,962 acres of lands by purchase, which encompass 0.36 percent of lands within the decision area. Ongoing land acquisition projects include the Sandy River/ National Historical Oregon Trail in the Salem District.

The majority of the decision area is currently within Zone 2 (suitable for exchange). **Table 3-81** presents the land tenure acreages for the alternatives and the Proposed RMP. Since the 1995 RMPs, the BLM has made only limited use of land exchanges (22,390 acres acquired; 7,367 acres disposed). Federal legislation rather than discretionary agency action directed most land exchanges and transfer activities within the decision area.

The 1995 RMP designated 18,266 acres (approximately 0.7 percent of the decision area) as Zone 3 (i.e., suitable for disposal). The BLM has sold 3,798 acres of Zone 3 lands since 1995. The BLM sold these lands primarily to resolve unintentional encroachment cases where an individual had unintentionally built a development on BLM-administered lands. The BLM does not sell lands identified for disposal if project-level reviews show conflicts with the land tenure adjustment criteria found in **Appendix K**.

Environmental Consequences

The only variation among the action alternatives and the Proposed RMP comes from the arrangement and acreage of Areas of Critical Environmental Concern. The adjustment in acres for Areas of Critical Environmental Concern affects both Zone 1 and Zone 2 lands, (i.e., as more acres are proposed for Areas of Critical Environmental Concern, the difference of acres is reflected in Zone 2). Zone 3 acreage does not adjust per alternative or the Proposed RMP (**Table 3-81**). **Appendix K** lists the specific lands that would be in Land Tenure Zone 3.

Table 3-81. Land tenure zone within the decision area by alternative and the Proposed RMP

| Land Tenure Zone | No Action (Acres) | Alt. A (Acres) | Alt. B (Acres) | Alt. C (Acres) | Alt. D (Acres) | PRMP (Acres) |
|---------------------------------------|-------------------|----------------|----------------|----------------|----------------|--------------|
| Zone 1 – Lands Suitable for Retention | 188,249 | 199,582 | 193,019 | 191,696 | 199,376 | 219,953 |
| Zone 2 – Lands Suitable for Exchange | 2,286,869 | 2,275,536 | 2,282,099 | 2,283,422 | 2,275,742 | 2,255,243 |
| Zone 3 – Lands Suitable for Disposal | 18,537 | 18,537 | 18,537 | 18,537 | 18,537 | 18,459 |

For the Proposed RMP, lands in Zone 1 are greater than in the action alternatives largely due to the inclusion of District-Designated Reserve – Lands Managed for their Wilderness Characteristics. The acreage of lands in Zone 3 is slightly less in the Proposed RMP than the action alternatives due to updated information on which lands would meet the criteria described above. The acreage difference between the action alternatives and the Proposed RMP would be approximately 1.2 percent of the planning area. This variation in acreage would have a negligible effect on the BLM’s ability to exchange lands.

Issue 2

How would the alternatives affect the availability of BLM-administered lands for rights-of-way in western Oregon?

Summary of Analytical Methods

The BLM identified the number of acres in each alternative and the Proposed RMP that would be designated as right-of-way avoidance and exclusion areas. The BLM then considered how these designations would affect the availability of rights-of-way on BLM-administered lands in the decision area.

Background

Through RMP-level decisions, the BLM may identify certain BLM-administered lands as right-of-way avoidance or exclusion areas.

- Right-of-way avoidance areas – Areas with sensitive resource values where the BLM will grant future rights-of-way if the BLM determines that the right-of-way proposals are compatible with the protection of the values for which the land use was designated, or when no feasible alternative route or designated right-of-way corridor is available as applicable with BLM laws and policy.
- Right-of-way exclusion areas – The BLM would not grant future rights-of-way except when mandated by law.

Upon completion of this RMP revision, the BLM would display right-of-way avoidance areas and right-of-way exclusion areas on map(s) accompanying the approved RMP.

In the action alternatives and the proposed RMP, the BLM used the following criteria to identify BLM-administered lands that it would identify as right-of-way avoidance areas:

- Areas of Critical Environmental Concern (including Research Natural Areas and Outstanding Natural Areas)
- Recreation Management Areas (Special and Extensive)
- Wilderness Study Areas

- Designated and Suitable Wild and Scenic Rivers classified as Scenic or Recreational rivers
- Visual Resource Management Class II that is not included in right-of-way exclusion areas

The BLM used the following criteria to identify BLM-administered lands that it would identify as right-of-way exclusion areas:

- Wilderness Areas
- District-Designated Reserve – Lands Managed for their Wilderness Characteristics
- Designated and Suitable Wild and Scenic Rivers classified as Wild rivers
- Visual Resource Management Class I Areas

The Proposed RMP used the same criteria with one exception: the Proposed RMP included Wilderness Study Areas in right-of-way exclusion areas instead of right-of-way avoidance areas.

The checkerboard land ownership pattern of O&C lands generates most of the need to cross public lands in order to provide access and utilities to intermingled private lands. The BLM generally does not know the location and nature of such proposals until the BLM receives an application.

Currently, most rights-of-way the BLM grants over BLM-administered lands in western Oregon are for access roads. In most cases, other linear rights-of-way (for such uses as domestic or irrigation waterlines, or utility lines for servicing residences) are authorized within or adjacent to existing road-clearing limits. In addition, the BLM has authorized other activities on public land using permits, easements, or leases, including:

- Apiary (beehive) sites
- Agricultural cultivation of small areas
- Residential encroachments or other structures pending their removal or long-term authorization
- National Guard or military reserve training
- Other miscellaneous short-term activities

Affected Environment

BLM-administered lands are currently generally available for needed rights-of-way where consistent with local public resource values. Under the 1995 RMPs, the BLM authorized numerous types of rights-of-way, including rights-of-way for county roads, private access roads, power transmission lines, communication sites, and bicycle trails. New right-of-way proposals across public lands are likely to continue in the future.

Of the current 6,254 authorized rights-of-way, 78 percent are for roads. In addition, there are 83 communication sites on BLM-administered lands within the planning area and **Appendix K** includes the inventory of existing communication sites.

Major existing right-of-way corridors within the planning area are shown in **Figure 3-103**. Existing facilities located within right-of-way corridors include Bonneville Power Administration and private electric transmission lines, pipelines, fiber-optic lines, and transportation infrastructure.

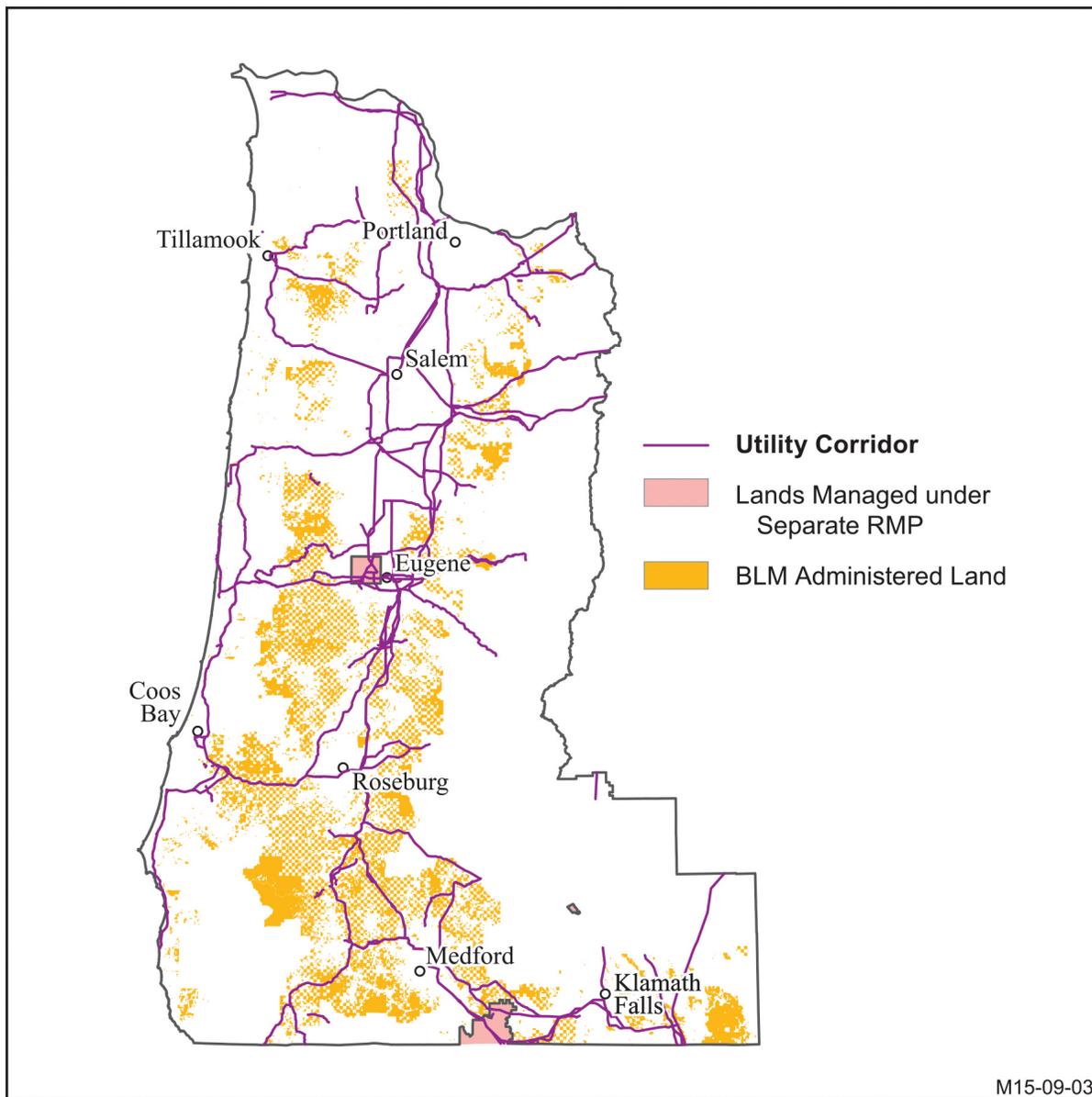


Figure 3-103. Utility corridors

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Pacific Connector Pipeline Project

The Federal Energy Regulatory Commission released the Jordan Cove Energy and Pacific Connector Pipeline Project Draft EIS in November 2014 (FERC 2014) and the Final EIS in September 2015 (FERC 2015). The Pacific Connector Gas Pipeline project would include an approximately 232-mile-long, 36-inch-diameter underground natural gas pipeline extending from a proposed Jordan Cove Energy liquefied natural gas export terminal in Coos Bay, Oregon, to an interconnection with the existing interstate natural gas systems of Ruby Pipeline LLC and Gas Transmission Northwest LLC near Malin, Oregon. The proposed route extends across 40 miles (approximately 800 acres) of BLM-administered lands in the Coos Bay, Medford, Lakeview, and Roseburg Districts. Implementation of the Pacific Connector Pipeline would require a right-of-way grant from the BLM to cross BLM-administered lands. The FERC-prepared Final EIS considered amendments to the 1995 RMPs for Coos Bay, Medford, Roseburg, and the Klamath Falls Field Office where the proposed action would not conform to those RMPs. Approximately 13 acres

of the proposed route of the pipeline passes through a right-of-way avoidance area within the Klamath Falls Field Office of the Lakeview District within the planning area and does not cross any right-of-way exclusion areas.

At this time, the Jordan Cove Energy and Pacific Connector Pipeline Project is no longer a reasonably foreseeable future action, because the FERC denied the certificate for construction of the Jordan Cove Energy and Pacific Connector Pipeline Project on March 11, 2016 (*Jordan Cove Energy Project, L.P. and Pacific Connector Gas Pipeline, L.P.*, 154 FERC ¶ 61,190 (2016)).

Environmental Consequences

The analysis shows that right-of-way avoidance area acres range from Alternative A with the least avoidance areas (179,436 acres) to Alternative D with the most avoidance acres (871,713 acres) (**Table 3-82**). While having fewer acres in avoidance areas than Alternative D, Alternative C would have more than double the acres in the No Action alternative. Alternative A has fewer acres than the No Action alternative. The large acreage difference is primarily due to differences in the acreage of Recreation Management Areas (which are designated in the action alternatives and Proposed RMP as right-of-way avoidance areas; see the Background section above), where the range of acreage is from 8,217 acres to 666,862 acres. With the large acreage of avoidance areas, the BLM’s ability to grant rights-of-way under Alternative D, and to a slightly lesser degree under Alternative C, would be constrained relative to the current conditions. The Proposed RMP acres are more than the No Action and Alternatives A and B, and less than Alternatives C and D.

Table 3-82. Right-of-way avoidance and exclusion areas in the Decision Area

| | No Action (Acres) | Alt. A (Acres) | Alt. B (Acres) | Alt. C (Acres) | Alt. D (Acres) | PRMP (Acres) |
|------------------|----------------------|-------------------|-------------------|-------------------|-------------------|-----------------|
| Avoidance Acres* | 243,928 | 179,436 | 326,510 | 575,444 | 871,713 | 456,801 |
| Exclusion Areas | 43,590 | 130,597 | 93,274 | 93,274 | 42,568 | 107,790 |

* Right-of-way avoidance total acreage is not a direct sum of the individual criteria acres due to criteria that overlap geographically. Areas that overlap with right-of-way exclusion areas are subtracted from the sum of the total avoidance acres because right-of-way exclusion is more restrictive than right-of-way avoidance.

The No Action alternative would have the fewest acres in right-of-way exclusion areas (42,382 acres) (**Table 3-82**) and Alternative A would have the most (129,389 acres). This acreage difference of 87,007 acres accounts for approximately 3.49 percent of the total decision area. The minimal variation in acreage for right-of-way exclusion areas would have little effect on the BLM’s ability to grant rights-of-way on BLM-administered lands. The Proposed RMP acres are less than Alternative A and more than the other alternatives.

References

- Federal Energy Regulatory Commission (FERC). 2014. Draft Environmental Impact Statement for the Jordan Cove Liquefaction and Pacific Connector Pipeline Projects. November 7, 2014. Washington, D.C. <http://www.ferc.gov/industries/gas/enviro/eis/2014/11-07-14-eis.asp>.
- . 2015. Final Environmental Impact Statement for the Jordan Cove Liquefaction and Pacific Connector Pipeline Projects. September 30, 2015. Washington, D.C. <http://www.ferc.gov/industries/gas/enviro/eis/2015/09-30-15-eis.asp>.
- . 2016. Order denying applications for certificate and Section 3 authorization. March 11, 2016. Washington, D.C. 25 pp. <http://www.ferc.gov/CalendarFiles/20160311154932-CP13-483-000.pdf>.