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# Chapter 1 – Purpose and Need

Chapter 1 describes the purpose and need for the action that is proposed, and identifies the factors that will be used when choosing among the alternatives at the time of the decision. This chapter also describes the boundaries of the planning area, the planning process – including scoping, the collaborative efforts the BLM has made with the many agencies and organizations that have an interest in BLM-administered lands in western Oregon, and the relationship these revised resource management plans have to other plans and programs.

In this chapter:

<b>Introduction .....</b>	<b>3</b>
<b>Purpose and Need for the Plan Revisions.....</b>	<b>3</b>
<b>Reasons for Revising the RMPs Now .....</b>	<b>4</b>
<b>Selecting a Preferred Alternative.....</b>	<b>7</b>
<b>Background .....</b>	<b>8</b>
<b>Planning Area .....</b>	<b>16</b>
<b>Planning Process .....</b>	<b>18</b>
<b>Collaboration .....</b>	<b>19</b>
<b>Relationship of the RMPs to Other Plans, and Programs.....</b>	<b>22</b>





## Introduction

The Bureau of Land Management (BLM) is revising the resource management plans (RMPs) for the Coos Bay District, Eugene District, Medford District, Roseburg District, Salem District, and the Klamath Falls Resource Area of the Lakeview District. The Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (O&C Act) is the statutory authority that provides primary direction to the BLM for managing most of the lands it administers in western Oregon.

### O&C Act

The lands that are managed by the O&C Act include the Oregon and California Railroad grant lands that were revested in 1916 and the Coos Bay Wagon Road lands that were reconveyed in 1919.

The existing RMPs are consistent with the 1994 Northwest Forest Plan, adopted by the Department of the Interior and the Department of Agriculture for federal forests within the range of the northern spotted owl as an “ecosystem management plan for managing habitat for late-successional and old-growth forest related species.” The proposed action is to revise the RMPs with land use allocations and management direction that best meet the purpose and need.

The BLM is proposing to revise existing plans to replace the Northwest Forest Plan land use allocations and management direction because (1) the BLM’s plan evaluations found harvest levels have not been achieving the timber harvest levels directed by existing plans, and the BLM now has more detailed and accurate information than was available in 1995 on the effects of sustained yield management on other resources, (2) there is an opportunity to coordinate the BLM management plans with new recovery plans and re-designations of critical habitat currently under development and (3) the BLM has re-focused the goal for management of the BLM-administered lands to the objectives of its statutory mandate to utilize the principles of sustained yield management on the timber lands covered under the O&C Act of contributing to the economic stability of local communities and industries, and other benefits from such management to watersheds, stream flows, and recreation.

## Purpose and Need for the Plan Revisions

The goals for the Northwest Forest Plan were broader than the specific requirements of the Endangered Species Act and Clean Water Act and sought to provide more consistent management of federally-managed lands by applying National Forest Management Act requirements to BLM-administered lands. The selected alternative for the Northwest Forest Plan was selected because it would “maintain the late-successional and old-growth forest ecosystem and provide a predictable and sustainable supply of timber, recreational opportunities and other resources at the highest level possible.” The purpose and need for this plan revision is focused on specific legal requirements and intended benefits of the BLM’s unique mandate under the O&C Act, distinct from the mandate to the U.S. Forest Service under National Forest Management Act.

The purpose and need for this proposed action is to manage the BLM-administered lands for permanent forest production in conformity with the principles of sustained yield, consistent with the O&C Act.<sup>1</sup> The plans will also comply with all other applicable laws including, but

<sup>1</sup> The Ninth Circuit in *Headwaters v. BLM*, 914 F.2d 1174 (9<sup>th</sup> Cir. 1990) confirmed that in the O&C Act Congress mandated timber production as the dominant use of these BLM-administered lands.



not limited to, the Endangered Species Act, the Clean Water Act, and, to the extent that it is not in conflict with the O&C Act, the Federal Land Policy and Management Act. In accord with the Endangered Species Act, the plans will use the BLM's authorities for managing the lands it administers in the planning area to conserve habitat needed from these lands for the survival and recovery of species listed as threatened or endangered under the Endangered Species Act.<sup>2</sup>

## Reasons for Revising the RMPs Now

**Plan evaluations showed the BLM's timber harvest levels as directed by existing plans were not being achieved, and the BLM now has more detailed and accurate information on the effects of sustained yield timber management on other resources.**

RMP revisions are necessary where monitoring and evaluation findings, new data, new or revised policy, or changes in circumstances indicate decisions in a plan (an entire plan or a major portion of a plan) no longer serve as a useful guide for resource management (43 CFR 1610.5-6). Failure to meet some plan objectives and new information that increases opportunities to improve the performance of other plan objectives necessitates revisions to resource management plans.

The BLM completed evaluations for the six western Oregon RMPs in 2004 and found departures from objectives, management actions, and assumptions in the timber resources program. The BLM determined the annual productive capacity and declared an allowable sale quantity of 211 million board feet (mmbf) in the 1995 records of decision for the RMPs for western Oregon.<sup>3</sup> Except for the Klamath Falls Resource Area of the Lakeview District, evaluations for the other districts documented that regeneration harvest was 30 to 60 percent of the levels anticipated. Even when thinning volume was added, except for the Klamath Falls Resource Area of the Lakeview District, plan evaluations showed that the timber offered from the harvest land base was still only 40 to 70 percent of the anticipated allowable sale quantity. This failure to meet the harvest levels is largely due to unanticipated legal and practical implementation issues involved in managing designated critical habitat for the northern spotted owl that was different than the land use allocations in the Northwest Forest Plan, and court decisions regarding the survey and manage mitigation measure and Aquatic Conservation Strategy.

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<sup>2</sup> This revision process will satisfy a settlement agreement resolving long-standing litigation of the Northwest Forest Plan (*AFRC v. Clarke*, Civil No. 94-1031-TPJ (D.D.C.)) that alleged the current RMPs violate the O&C Act. The settlement agreement requires BLM to consider revisions to the RMPs by the end of the year 2008, and include at least one alternative that "will provide permanent forest production across the O&C lands without reserves except as required to avoid jeopardy under the Endangered Species Act." See *Appendix A* for more discussion.

<sup>3</sup> Currently, due to subsequent adjustments through plan amendments and maintenance, the declared allowable sale quantity for the BLM lands in western Oregon is 203 million board feet (mmbf).



The departures from the expectations and assumptions of the RMPs regarding the ability of the BLM to supply timber at a predictable and sustained level under the Northwest Forest Plan have created substantial uncertainty as to whether the objective under the O&C Act (managing O&C lands for permanent forest production and contributing to the stability of the local economy and industry) can be met in the short or long term. Even though the purpose of the O&C Act in providing a stable source of revenue to the county governments has been supplanted in recent years through temporary Congressional funding, the source of this revenue in the long term is uncertain. To the extent the BLM can provide a substantial stream of revenue to the counties through the revenue sharing provisions of the O&C Act, the ability of county governments dependent on these revenues to provide services will be improved. Furthermore, the revenue sharing provision is primarily in support of the local governments, whereas the intended benefits of sustained yield timber management under the O&C Act also include contribution to the local economies and industries, not just to governments.

These plan evaluations generally found that other resource programs were functioning as anticipated in achieving most goals, but identified potential for improvements. For example, the evaluations indicated opportunities to adjust the off highway vehicle designations for some districts, to add a new policy (the National Fire Plan) for some districts, to address the latest science and more recent listings on threatened and endangered species for all of the districts. These items in themselves may not have justified a revision of the current RMPs, but will be considered in this revision of the RMPs.

In 1995, the Northwest Forest Plan analysis used a geographical information database that was limited to a resolution of units of 40 acres in size. The current database has a resolution many times finer than this: i.e., 10 square meters in resolution rather than 40 acres. Additionally the hydrological map data, among others, was incomplete at that time and has now been completed and updated. As a consequence, the BLM is now able to perform analysis on such resources as aquatic habitat in much finer detail with more precision using analytical models that were unavailable in 1993. In part due to the limitations of the available information database, the 1995 RMPs erred on the side of caution regarding resources used by species considered rare, threatened, or endangered. That margin of error is no longer justified. Making this adjustment in light of advances in the analytical ability, data, and knowledge of the resources is consistent with the principles of adaptive management articulated in the Northwest Forest Plan in 1994.

**There is an opportunity to coordinate the BLM’s management plans with new recovery plans and redesignations of critical habitat currently under development.**

The National Marine Fisheries Service and Fish and Wildlife Service are currently reviewing, revising or drafting recovery plans and critical habitat for some listed species in the planning area. These revisions will also allow the BLM to coordinate its RMPs with decisions on the recovery plans and any re-designation of critical habitats.

The late-successional reserves in the Northwest Forest Plan do not coincide completely with the critical habitat that was designated for the northern spotted owl by the Fish and Wildlife Service in 1992. This resulted in an uncertainty for those matrix lands that are overlain with the critical habitat designation, because the matrix land use allocation was where the majority of timber harvesting to meet the declared allowable sale quantity was expected to occur.



Some Fish and Wildlife Service biological opinions on timber sales within critical habitat have been litigated and found invalid. In the *Gifford Pinchot Task Force*<sup>4</sup> decision, the Ninth Circuit made it clear that effects to critical habitat must be considered regardless of whether the Northwest Forest Plan would be expected to recover the species. As a result, the ability of the BLM to implement timber sales in the portions of the matrix and adaptive management area that are within designated critical habitat is more limited than anticipated in the current RMPs.

The existing management uncertainty resulting from the differences between the designated critical habitat and the reserves established in the Northwest Forest Plan could be reduced by harmonizing the BLM RMPs with designated critical habitat. The Fish and Wildlife Service is concurrently writing a recovery plan and reexamining the designation of critical habitat for the northern spotted owl. Thus, the BLM, at this time, has an opportunity to integrate the recovery plans of the Fish and Wildlife Service and National Marine Fisheries Service, and any redesignation of critical habitat, into the revision of the BLM's resource management plans.

**The BLM has re-focused the goal for management of the BLM-administered lands to the statutory mandates specifically applicable to these lands.**

The statutory requirements of the O&C Act, which governs most BLM-administered lands in western Oregon, include, but are not limited to, managing the O&C lands for permanent forest production by selling, cutting, and removing timber in conformance with the principles of sustained yield; determining the annual productive capacity of the lands managed under the O&C Act; and offering that determined capacity annually under normal market conditions. The statute states that the purpose of sustained yield management of these lands is to provide a permanent source of timber, contribute to the economic stability of local communities and industries, as well as benefit watersheds, regulate stream flows, and provide recreational use.<sup>5</sup> The statutory requirements of the O&C Act are limited by other statutes providing for the need to conserve listed species and the habitat they depend on, not jeopardizing listed species and not adversely modifying critical habitat, and the protection of the chemical, biological and physical properties of the water of the United States. As long as the requirements of these other statutes are met, increasing the level of timber production consistent with the principles of sustained yield would further the objectives set by Congress for managing these lands under the O&C Act.

Land use allocations
For details about the Northwest Forest Plan and its land use allocation designations, search for the phrase Northwest Forest Plan at <a href="http://www.blm.gov/search">http://www.blm.gov/search</a> .

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<sup>4</sup> *Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9<sup>th</sup> Cir. 2004)

<sup>5</sup> The BLM interprets this language of the O&C Act as explaining the rationale for sustained yield forest management, rather than enumerating additional objectives for management.



## Selecting a Preferred Alternative

In selecting among the alternatives in this plan revision, the BLM will evaluate which alternative or combination of alternatives best meets the Purpose and Need. In addition, the BLM will consider the environmental consequences related to the issues identified below and the cost of implementation.



# Background

The following background summarizes the major resource plans, and laws that affect the BLM’s management of the O&C lands of western Oregon.

## Northwest Forest Plan

The management direction contained in the 1994 Northwest Forest Plan (NWFP) was designed to respond to the need for both forest habitat and forest products (NWFP ROD, p. 25). In selecting Alternative 9 (which became the NWFP), the secretaries of the Interior and Agriculture stated that “[t]o balance these sometimes conflicting purposes and plan for management of ecosystems that cross the administrative boundaries ... we adopt the alternative that will both maintain the late-successional and old-growth forest ecosystem and provide a predictable and sustainable supply of timber” (NWFP ROD, p. 26).

Northwest Forest Plan
For documents relating to the Northwest Forest Plan, including the record of decision (ROD), visit <a href="http://www.blm.gov/or/plans/nwfpnepa/index.htm">http://www.blm.gov/or/plans/nwfpnepa/index.htm</a> or <a href="http://www.reo.gov/library">http://www.reo.gov/library</a> .

The decision to select Alternative 9 was an attempt to balance the two purposes of forest habitat and forest products. The balancing was primarily accomplished through land allocations between lands designated as reserved lands (congressionally reserved areas, administratively withdrawn, late-successional reserves, and riparian reserves) that were declared “incompatible with programmed, sustained timber harvest” (NWFP SEIS, p. 3&4-263) and the lands not reserved for conservation purposes were left as “matrix” or “adaptive management areas” land allocations on which programmed timber harvest could take place. These remaining unreserved lands constituted 23 percent of the BLM-administered lands. Timber harvesting on the matrix lands and in the adaptive management areas was restricted by the standards and guidelines that were designed to achieve conservation objectives on these lands (NWFP ROD, p. 1-2).

The conservation strategy of the Northwest Forest Plan addressed not only the Endangered Species Act, but also the National Forest Management Act of 1976 (NFMA) and its requirement that the United States Forest Service “provide for diversity of plant and animal communities ... to meet overall multiple-use objectives” (16 U.S.C. §1604). The Northwest Forest Plan applied the same criteria for the management of habitat on both United States Forest Service and BLM-administered lands. The discussion regarding the legal and regulatory compliance of Alternative 9 (as it relates to the National Forest Management Act) in the 1994 record of decision for the Northwest Forest Plan states that:

NFMA
The National Forest Management Act of 1976 was an amendment to the Forest and Rangeland Renewable Resources Planning Act of 1974 that reorganized and expanded the 1974 act. For the complete act and its regulations, search for Title 16 and all sections starting with Section 1600 at <a href="http://uscode.house.gov">http://uscode.house.gov</a> .



*Although NFMA regulations apply to lands administered by the Forest Service, the fish and wildlife regulation was used as a criterion in the development of the alternative we select today, which includes direction for management of BLM lands. Use of the regulation's goals in developing alternatives applicable to BLM lands serves the important policy goal of protecting the long-term health and sustainability of all of the federal forests within the range of the owl and the species that inhabit them.” (NWFP ROD, p. 44)*

## Major Laws Affecting Management of O&C Lands

How the various laws affect the management of the O&C lands is discussed in this section. In addition to the laws presented here, there are a multitude of other legal authorities that affect the management of the O&C lands. For those, see *Appendix A*.

The O&C Act has been the statutory authority for the management of the O&C lands since 1937. Subsequent laws affect the management of the O&C lands to varying degrees. Laws, such as the Endangered Species Act and Clean Water Act, are directly applicable to how the BLM exercises its statutory authorities in managing the O&C lands, but none of these laws repealed the underlying primary direction and authority for the O&C lands. Thus, the BLM has a duty to find a way to concurrently implement all these laws, in a manner that harmonizes any seeming conflict between them, unless Congress has provided that one law would override another law. This is the situation in the Federal Land Policy and Management Act where Congress provided that in any conflict between that law and the O&C Act, the O&C Act would prevail. Thus, the O&C Act takes precedence over FLPMA with regard to timber management and receipts distribution.

### O&C Act

The 1937 act that administers the O&C lands is untitled, but, through the title given to the codified regulations that administers the act, it is now known as the Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (O&C Act).

## Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (43 U.S.C. §1181a et seq.)

The 1937 Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (O&C Act) provides the legal authority to the Secretary of the Interior for the management of the O&C lands. The O&C Act was intended to provide forest management that would generate revenue to the local counties and halt previous practices of clearcutting without reforestation and the “boom and bust” cycles caused by logging in excess of the forest’s sustained yield capacity. The O&C Act limited timber harvest to a level that could be continued without

### O&C Act

For the complete act and its regulations, search for Title 43 and all sections starting with Section 1181a at <http://uscode.house.gov>.



exceeding the amount of forest growth to avoid depletion of timber resources and provide other benefits.<sup>6</sup>

The O&C Act requires that the O&C lands be managed “for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities” (43 U.S.C. §1181a).

The O&C Act goes on to state that “[t]he annual productive capacity for such lands shall be determined and declared ... [p]rovided, [t]hat timber from said lands ... not less than the annual sustained yield capacity ... shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market” (43 U.S.C. §1181a).

When monetary receipts from the sale of timber from the O&C lands are distributed, 50% is distributed to the counties in which the revested lands are located. That 50% is distributed to the counties according to their proportion of the total assessed value of the revested lands that existed in each of the counties in 1915. Those percentages range from 0.36% to 25.05% for the 18 O&C counties. It does not matter in which counties the timber is harvested. All counties get their assigned percentage of whatever receipts are available each year.

In meeting the various requirements for managing the O&C lands, the Secretary of the Interior has discretion under the O&C Act to determine how to manage the forest to provide for permanent forest production on a sustained yield basis. While the O&C Act does state that “the timber thereon shall be sold, cut, and removed in conformity with the principal [sic] of sustained yield,” it does not specify the harvest methods, rotation length, or silviculture regimes under which these forests would be managed. Nor does it establish a minimum level of harvest or a minimum level of receipts.

## **Federal Land Policy and Management Act (43 U.S.C. §1701 et seq.)**

The Federal Land Policy and Management Act of 1976 (FLPMA) provides the legal authority to the Secretary of the Interior for the management of public domain lands. The act requires, in part, that “the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and

### FLPMA

For the complete act and its regulations, search for Title 43 and all sections starting with Section 1701 at <http://uscode.house.gov>.

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<sup>6</sup> H.R. Report, No. 1119, 75<sup>th</sup> Cong., 1<sup>st</sup> Sess. 2 (1937).



use” (43 U.S.C. §1701 [Sec. 102.a.8]). In addition, the act requires that “the public lands be managed in a manner which recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber from the public lands” (43 U.S.C. §1701 [Sec. 102.a.12]).

However, the Federal Land Policy and Management Act specifically provides that if there is any conflict between its provisions and the O&C Act related to the management of timber resources or the disposition of revenues from the O&C lands and resources, the O&C Act prevails (i.e., takes precedence) (43 U.S.C. §1701). Thus, the multiple-use management direction of this act does not apply to the O&C lands that are suitable for timber production. On the other hand, the planning process established by this act is applicable to the O&C lands, since it is not in conflict with the O&C Act’s management direction for those lands.

Note that the multiple-use management direction of this act does apply to other public lands (e.g., the public domain lands) that are managed by the BLM in western Oregon.

## **Endangered Species Act (as amended) (16 U.S.C. §1531 et seq.)**

Section 7 of the Endangered Species Act (ESA) requires federal agencies to use their legal authorities to promote the conservation purposes of the act. This section also requires federal agencies to consult with the United States Fish and Wildlife Service or the National Marine Fisheries Service to ensure that actions they authorize, fund, or carry out will not jeopardize species listed as threatened or endangered under the ESA or cause destruction or adverse modification to designated critical habitat for such species. Critical habitat is defined, in part, as geographic areas occupied by the species that contain the physical or biological features essential to the conservation of a species listed under the act and that may need special management or protection. (U.S. Fish and Wildlife Service, Endangered Species Program. *ESA Basics - 30 Years of Protecting Endangered Species*. May 2006. URL: [http://www.fws.gov/Endangered/pubs/ESA%20BASICS\\_050806.pdf](http://www.fws.gov/Endangered/pubs/ESA%20BASICS_050806.pdf) (accessed October 2006))

### Endangered Species Act

For the complete act and its regulations, search for Title 16 and all sections starting with Section 1531 at <http://uscode.house.gov>.

## **Clean Water Act (as amended) (33 U.S.C. §1251 et seq.)**

The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation’s waters. To accomplish this objective, the statute requires that: water quality standards consistent with the statutory goals of the Clean Water Act be established; water bodies be monitored to determine whether the water quality standards are being met; and, if all of the water quality standards are being met, then antidegradation policies and programs, including ambient monitoring, be employed to keep the water quality



at acceptable levels.

If a water body is not meeting the applicable water quality standards for a beneficial use, a strategy for meeting the required standards must be developed by the administering agency, typically the state water quality agency. For example, section 303(d) of the Clean Water Act directs states and tribes to develop a list of waters that fail to meet water quality standards and develop total maximum daily loads (TMDLs) for the individual pollutants (e.g., sediment, bacteria, elevated instream temperature) causing the water quality standards violations. TMDLs determine what level of pollutant load would be consistent with meeting the water quality standards and allocate acceptable loads among sources of the relevant pollutants. Necessary reductions in pollutant loading are achieved by implementing strategies that are authorized by the Clean Water Act, along with other tools that are available from federal, state, and local governments and nongovernmental organizations. (U.S. Environmental Protection Agency, Watershed Academy Web. *Introduction to the Clean Water Act*. March 13, 2003. URL: <http://www.epa.gov/watertrain/cwa/rightindex.htm> (accessed October 2006))

Clean Water Act

For the complete act and its regulations, search for Title 33 and all sections starting with Section 1251 at <http://uscode.house.gov>.

Sections 303(d) and 319 of the Clean Water Act most directly apply to the BLM. Section 303(d) (codified as 33 U.S.C. §1313(d)) directs states and tribes to develop a list of waters that fail to meet water quality standards for various constituents including, among others, sediment, temperature, and bacteria. Section 303(d) requires states and tribes to develop total maximum daily loads that apportion a load of pollutants that can be discharged into the waters of a state. Section 319 (codified as 33 U.S.C. §1329) established management programs to control water pollution from nonpoint sources, such as sediment.

## The BLM's Application of the O&C Act

Based on the language of the O&C Act, the O&C Act's legislative history, and the decision by the Ninth Circuit in *Headwaters v. BLM*, (914 F.2d 1174 (9th Cir. 1990)), it is clear that the management of timber (including harvesting) is the dominant use of the O&C lands in western Oregon. That dominant use, however, must be implemented in full compliance with a number of subsequent laws that direct how the BLM accomplishes that statutory direction. See *Appendix A* for a discussion of court rulings most relevant to the decisions which must be made in revising the RMPs for the BLM lands in western Oregon.

The following sections discuss the laws that affect the management of areas of critical environmental concern, wilderness study areas, scenic values, and listed species.



## Areas of Critical Environmental Concern

The Federal Land Policy and Management Act provides the authority for the designation of areas of critical environmental concern (43 U.S.C. §1712 [Sec. 202.c.3]). However, the O&C Act prevails over the Federal Land Policy and Management Act with regard to the management of timber resources on O&C lands. With these two laws, the BLM:

- Would manage areas of critical environmental concern to protect their relevant and important features on O&C lands where management of the area of critical environmental concern would not conflict with sustained yield forest management in areas dedicated to timber production .
- Would manage areas of critical environmental concern to protect their relevant and important features on public domain lands.
- Would designate research natural areas, a type of area of critical environmental concern, on O&C lands when the scientific value of the research is relevant to sustained yield forest management.
- Would not designate other areas of critical environmental concern on O&C lands where management of the area of critical environmental concern would conflict with sustained yield forest management in areas dedicated to timber production.

## Wilderness Study Areas

The Federal Land Policy and Management Act provided the authority for the designation of wilderness study areas (43 U.S.C. §1782 [Sec. 603]), but that authority expired in 1993. Moreover, the O&C Act prevails over the Federal Land Policy and Management Act with regard to the management of timber resources on O&C lands. With these two laws, the BLM:

- Cannot designate additional wilderness study areas due to the expiration of that designation authority under the Federal Land Policy and Management Act.
- Can manage lands outside of the existing wilderness study areas for wilderness characteristics on O&C lands where management for wilderness characteristics would not conflict with sustained yield forest management in areas dedicated to timber production.
- Can manage lands outside of the existing wilderness study areas for wilderness characteristics on public domain lands.



## Visual Resources

The Federal Land Policy and Management Act provides the authority for the protection of scenic values (43 U.S.C. §1701 [Sec. 102.a.8]). However, the O&C Act prevails over the Federal Land Policy and Management Act with regard to the management of timber resources on O&C lands. With these two laws, the BLM:

- Would protect scenic values as identified through a visual resource management inventory where the protection is required as part of the management specified by Congress in subsequent legislation, such as the Wild and Scenic Rivers Act.
- Can protect scenic values as identified through a visual resource management inventory on O&C lands where protection would not conflict with sustained yield forest management in areas dedicated to timber production.
- Can protect scenic values as identified through a visual resource management inventory on public domain lands.

## Special Status Species

Special status species includes those species that are listed by the Endangered Species Act as threatened or endangered (including proposed and candidate species), listed by a state as being of special concern, and listed by the BLM as sensitive or needing assessment. The *BLM Manual 6840 – Special Status Species Management* provides the direction for the management of species that are listed as having special status. The Endangered Species Act provides the authority for the management of species that are listed as threatened or endangered. The Sikes Act provides the authority for the management of species that are listed by a state as being of special concern. The Federal Land Policy and Management Act provides the authority for the management of species that are listed by the BLM as sensitive or assessment species. The O&C Act, however, prevails over the Federal Land Policy and Management Act with regard to the management of timber resources on O&C lands. With these four laws and BLM policy, the BLM:

BLM Manual 6840 For this policy manual, search for 6840 at <a href="http://www.blm.gov/search/">http://www.blm.gov/search/</a> .
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- Must, as a federal agency, follow certain procedures to assure that the exercise of its authorities would not likely jeopardize a listed species or adversely modify the critical habitat of a listed species on all BLM-administered lands.
- Must utilize its authorities to further the purposes of the Endangered Species Act by managing BLM-administered lands in a manner that aids the recovery of threatened and endangered species.



- Would accord specific protection to a state listed species under the O&C Act where the state and the BLM have entered into a cooperative management agreement for a species.
- Would accord specific protection to BLM sensitive or assessment species on O&C lands where protection would not conflict with sustained yield forest management in areas dedicated to timber production, or where such protection is necessary to prevent extinction of a species, even if it is not yet listed under the Endangered Species Act.
- Would accord specific protection to BLM sensitive or assessment species on public domain lands.

## Management of the Public Domain Lands in Relation to the O&C Lands

Out of the 2,557,800 acres of the BLM lands that are in the planning area, approximately 394,600 acres are public domain lands. About half of those public domain lands are small parcels that are widely scattered and intermingled with the O&C lands. While the Federal Land Policy and Management Act requires that the public domain lands be managed for a multitude of values, the act does not require that every parcel be managed for every value. As in previous resource management plans, these public domain parcels will be managed in accordance with the 1975 Public Land Order (PLO) No. 5490, which reserves these intermingled public domain lands for multiple-use management, including the sustained yield of forest resources in connection with the intermingled revested Oregon and California Railroad Grant lands and reconveyed Coos Bay Wagon Road Grant lands.

PLO No. 5490

For the complete subject heading and FR citation, search for PLO 5490 at <http://blm.gov/nhp/what/plo>.





Table 10. The BLM districts and Oregon counties included in the planning area of the resource management plan revisions

BLM Districts	Oregon Counties	
Coos Bay	Benton	Lane
Eugene	Clackamas	Lincoln
Lakeview (Klamath Falls Resource Area only)	Columbia	Linn
Medford	Coos	Marion
Roseburg	Curry	Multnomah
Salem	Douglas	Polk
	Jackson	Tillamook
	Josephine	Washington
	Klamath	Yamhill

The BLM's current resource management plans provide the procedures and requirements for the management of approximately 2,557,800 acres of federal land within the planning area. These acres are the orange blocks in *Figure 7*. These BLM-managed lands are widely scattered and represent only about 11% of the planning area. Of the approximately 2,557,800 acres that are managed by the BLM, approximately 2,151,200 acres are managed primarily under the O&C Act and are commonly referred to as the O&C lands. The remaining 406,600 acres are public domain (394,600 acres) and other (12,000 acres) lands that are managed primarily under the Federal Land Policy and Management Act. See *Table 11* for the status of all federal lands in the planning area per district.

Note: The BLM's resource management plans also apply to an additional 69,000 acres that are split-estate lands for which the BLM manages only the subsurface mineral estate.

Table 11. Legal status of lands managed by the BLM in western Oregon

BLM Districts	O&C and Coos Bay Wagon Road Lands (acres)	Public Domain (acres)	Other (acres)	Total (acres)
Salem	349,300	51,600	2,100	403,000
Eugene	304,200	10,500	400	315,100
Roseburg	406,500	19,800	0	426,300
Coos Bay	279,400	41,800	1,500	322,700
Medford	764,900	96,100	4,800	865,800
Klamath Falls Resource Area (Lakeview District)	46,900	174,800	3,200	224,900
Total	2,151,200	394,600	12,000	2,557,800

Much of the O&C lands have retained the checkerboard character of the original railroad land grants of the 1800s with the BLM managing the odd-numbered sections. Because of this ownership pattern, activities on adjacent private lands have implications for the management of the federal lands. The BLM typically manages less than half, and often only a small percentage, of the land in any particular fifth-field watershed.

#### Checkerboard

A land ownership pattern in which square-mile sections of federal lands are intermixed with and surrounded by private lands.

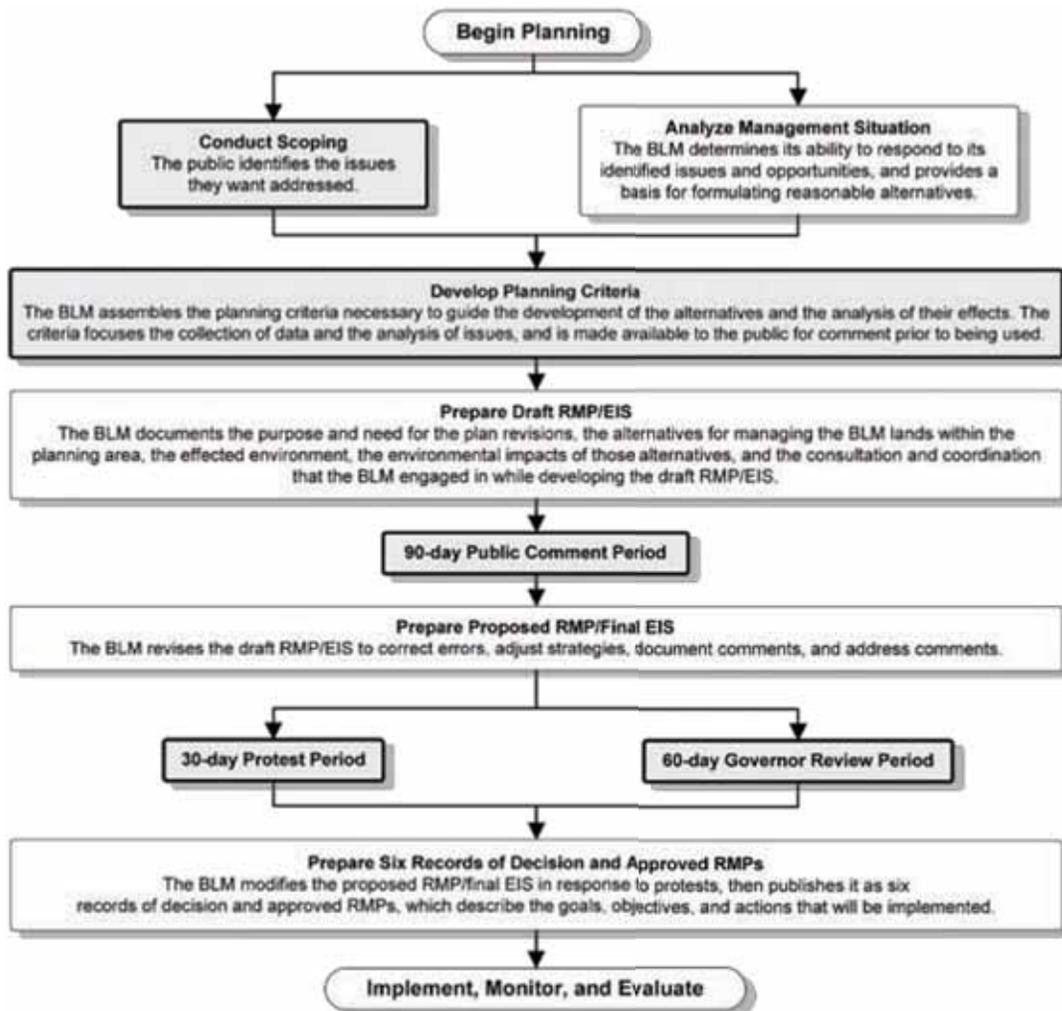


# Planning Process

Preparing a resource management plan involves a series of explicit steps. See *Figure 8*. The following tasks have been completed as of the release of this draft environmental impact statement:

- Scoping was conducted from September through October 2005. The BLM attended or hosted about 75 meetings with community groups, special interest groups, elected officials, and others. About 3,000 communications were received with public comments and suggestions.
- Analysis of the management situation was released in October 2005.
- The planning criteria and the scoping report were released in February 2006.

Figure 8. Steps in the planning process (highlighted boxes indicate public involvement)





# Collaboration

The Federal Land Policy and Management Act and the National Environmental Policy Act (NEPA) provide direction regarding the coordination and cooperation of federal agencies with other agencies and also local and state governments. The Federal Land Policy and Management Act specifically emphasizes the need to ensure the coordination and consistency of a federal agency’s proposed actions with the plans and policies of other relevant jurisdictions. The National Environmental Policy Act specifically requires cooperative relationships between lead and cooperating agencies.

## NEPA

For the complete act and its regulations, search for Title 42 and all sections starting with Section 4321 at <http://uscode.house.gov>.

## Formal Cooperators

Cooperating agency status provides a formal framework for governmental units—local, state, or federal—to engage in active collaboration with a lead federal agency to implement the requirements of the National Environmental Policy Act. Within the constraints of time and resources, cooperating agency staff members are encouraged to participate fully with the BLM as members of the planning and environmental impact statement team.

For these resource management plan revisions, the BLM has worked with cooperators from a multitude of agencies. Cooperators have provided expertise in much of the subject matter being analyzed and have provided advice based on experiences with similar planning efforts. See *Table 12* for a list of the formal cooperators for the western Oregon resource management plan revisions.

Table 12. Formal cooperators

Federal Agencies	State Agencies	Oregon Counties	
	Office of the Governor		
	Department of Forestry		
	Department of Fish and Wildlife	Benton*	Lane
United States Forest Service	Department of Environmental Quality	Clackamas	Lincoln
United States Fish and Wildlife Service	Department of Transportation	Columbia	Linn
	Department of Geology and Mineral Industries	Coos	Marion
National Marine Fisheries Service	Department of Agriculture	Curry	Polk
	Department of Parks and Recreation	Douglas	Tillamook
Environmental Protection Agency	Department of State Lands	Jackson	Washington
	State Marine Board	Josephine	Yamhill
	Water Resources Department	Klamath	

\*Not represented by the Association of O&C Counties.



## Government-to-Government Relationships

There are seven recognized tribes within the planning area. *Table 13* lists these tribes. All of the tribes have stated that they want government-to-government relationships rather than cooperator relationships. The Coquille Tribe is directly engaged in the planning process because, by law (25 U.S.C. §715c), the management of their tribal lands must be consistent with the management of the surrounding federal lands.

Coquille Restoration Act  
For the complete act and its regulations, search for Title 25 and all sections starting with Section 715 at <http://uscode.house.gov>.

Table 13. Recognized tribes within the planning area

Tribes
Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians
Coquille Indian Tribe
Cow Creek Band of Umpqua Tribe of Indians
Confederated Tribes of Grand Ronde
Confederated Tribes of Siletz
Confederated Tribes of the Warm Springs Reservation
The Klamath Tribes

Title V of the Oregon Resource Conservation Act of 1996 (Public Law 104-333) created the Coquille Forest. The act states that the Coquille Forest shall be managed “under applicable State and Federal forestry and environmental protection laws, and subject to critical habitat designations under the Endangered Species Act, and subject to the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands, now and in the future.” The Coquille Indian Tribe and the BLM are considering entering into an agreement to collaborate and coordinate management on the BLM lands that are adjacent to the Coquille Forest to further the management described in the act.

## Formal Scoping

Scoping is a public involvement process. Its purpose is to identify issues early in the planning process that the planning process needs to address and to provide opportunities for the public to provide comments. These public comments determine the scope of the issues to be addressed and help identify the significant issues related to the proposed actions.

### Summary of the Scoping Process

The formal scoping period started with the printing of a notice of intent in the Federal Register on September 7, 2005 and concluded on October 21, 2005. The first edition of the BLM planning newsletter (*Western Oregon Plan Revisions News, Scoping for Issues, Issue No. 1, August 2005*) was mailed in early September to approximately 11,000 postal addresses. The addresses



were collected from interested parties who had contacted the six BLM districts regarding the resource management plan revisions or the 2004 survey and manage environmental impact statement. Approximately 75 meetings were conducted with interested parties in western Oregon. These public meetings included one-on-one meetings with key stakeholders, presentations to organized groups and agencies, tours, and advertised public meetings. Several newspaper articles reported on the scoping process and advertised the public meetings.

The BLM also requested that an outside organization conduct an independent assessment of the interests and concerns of the stakeholders. The Public Policy Research Institute at the University of Montana was retained to solicit ideas on how to involve the public throughout the planning process. The Institute conducted this assessment with the assistance of RESOLVE and the Consensus Building Institute, which are two nationally recognized public involvement organizations. Their report and recommendations were considered in designing the public involvement activities.

About 3,000 communications were received during the scoping period. Comments included e-mail messages, written correspondence, face-to-face discussions, and meeting notes. The results of the scoping are available in the *Western Oregon Plan Revisions, Scoping Report, February 2006*. This public input greatly assisted the BLM in formulating this draft environmental impact statement.

## Issues Identified

An issue, in the context of an environmental impact statement, is a matter of concern about resource management activities or land use that is well-defined or topically discrete. Identification of issues contributes to the development of the objectives which any reasonable alternative must achieve and/or factors that will be considered in choosing among the reasonable alternatives. The issues identified during scoping for these resource management plan revisions were:

- **Vegetation.** How should the BLM provide a sustainable supply of wood and other forest products, as mandated by the O&C Act, while also meeting all of the applicable laws and regulations?
- **Habitat for species listed under the Endangered Species Act.** How should the BLM manage federal lands in a manner that is consistent with the Endangered Species Act in order to contribute to the conservation of species?
- **Watershed management and water quality.** How should the BLM manage federal lands to contribute to the goals of the Clean Water Act and the Safe Drinking Water Act?
- **Wildland fire and fuels.** How should the BLM manage federal lands to reduce the risk of wildfires and integrate fire back into the ecosystem?



- **Off-highway vehicle management (particularly in the Medford District).** How should the BLM administer federal lands to meet the demand for off-highway vehicle use while protecting other resources?

## Relationship of the RMPs to Other Plans, and Programs

The April 1994 record of decision for the Northwest Forest Plan, signed jointly by the Secretary of the Interior and the Secretary of Agriculture, required the BLM to incorporate the Northwest Forest Plan's land use allocations and its standards and guidelines into the resource management plans for western Oregon. The resource management plans were subsequently amended by the following interagency plan amendments:

- *January 2001, Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines in Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl*

Note: The survey and manage categorizations for the red tree vole were established in this record of decision. The Ninth Circuit Court decision in *Klamath-Siskiyou Wildlands Center v. Boody*, 468 F.3d 549 (9th Cir., 2006), found that the changes to those survey and manage categorizations for the red tree vole would constitute plan amendments that need to be analyzed with National Environmental Policy Act (NEPA) procedures. The court then invalidated the re-categorizations regarding the red tree vole, because the BLM had not prepared a NEPA document to "amend" the plans. Whether other re-categorizations made through the annual species review process would constitute plan amendments has not been addressed in litigation.

- *March 2004, Record of Decision to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines in Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl*

Note: The United States District Court for the Western District of Washington found this record of decision invalid since it relied on a supplemental environmental impact statement that the Court found deficient in certain respects. (See *Northwest Ecosystem Alliance v. Rey*, 380 F. Supp. 2d 1175 (W.D. Wash. 2005). The Court issued an order of relief on January 9, 2006. That order was later modified by another order dated October 11, 2006, which allowed the decision to eliminate the survey and manage requirement to take effect for four specified activities. Another supplemental environmental impact statement has been prepared to address the deficiencies in the 2004 environmental impact statement found by the Court.



- *March 2004, Record of Decision, Amending Resource Management Plans for Seven Bureau of Land Management Districts and Land and Resource Management Plans for Nineteen National Forests Within the Range of the Northern Spotted Owl, Decision to Clarify Provisions Relating to the Aquatic Conservation Strategy*

Note: The United States District Court for the Western District of Washington found this record of decision invalid since it relied on a supplemental environmental impact statement and a biological opinion that the Court found deficient in certain respects. (See *Pacific Coast Federation of Fishermens' Associations v. NMFS*, No. 04-1299-RSM (W.D. Wash. March 30, 2007). The Court, as of this writing, has not yet issued an order of relief.

The Northwest Forest Plan is not a statute or regulation. It was a coordinated, multi-agency amendment to then current resource management plans of the BLM and forest plans of the Forest Service. The Secretaries and the agencies retained authority provided by statutes and regulations to revise these plans in the future. The only provision the Northwest Forest Plan made concerning future amendments to these plans was that they would be “coordinated” through the “Regional Interagency Executive Committee and the Regional Ecosystem Office.” (See NW Forest Plan ROD, p. 58). This plan revision does not seek to amend the Northwest Forest Plan, but to replace the Northwest Forest Plan land use allocation and management direction through plan revision. Nevertheless, the BLM has briefed the Regional Interagency Executive Committee on this plan revision. Furthermore, many of the agencies that were signatories to the Memorandum of Understanding that created the Regional Interagency Executive Committee and the Regional Ecosystem Office are cooperating agencies in this revision.

## Endangered Species Act, Section 7, Consultation

Pursuant to the Endangered Species Act, the BLM, as a federal agency, consults with NOAA’s National Marine Fisheries Service and the United States Fish and Wildlife Service on all actions that it proposes that may affect listed species. Federal land management plans are considered to be equivalent to conservation plans wherever habitat is being managed for endangered species and as such, require consultation under Section 7 of the Endangered Species Act. (See *Lane County Audubon Society v. Jamison*, 958 F.2d 290 (9th Cir., 1992))

Consultation under the Endangered Species Act for the resource management plans will look broadly at the total landscape management approach. Since no specific on-the-ground activity is actually proposed in the resource management plans, no specific level of incidental take can be identified or exempted in biological opinions for the plans. As subsequent actions are proposed to implement approved resource management plans, those actions will undergo project-level consultation, either formally or informally (as appropriate).



Additionally, species recovery plans and consideration of revisions to critical habitat are currently in progress for several threatened and endangered species. The BLM anticipates that these recovery plans will be completed within the current planning period for the western Oregon resource management plan revisions. If the recovery plans become available before the revisions are completed, they will be incorporated into the revisions.

Recovery planning

For details about the recovery planning for the northern spotted owl and other species that is being led by the U.S. Fish and Wildlife Service, visit <http://www.fws.gov/pacific/ecoservices/endangered/recovery/NSORecoveryPlanning.htm>

## Water and Air Quality Management

As part of the revisions for the western Oregon resource management plans, the BLM will concurrently coordinate with various agencies on water and air quality management. The BLM will coordinate with the Environmental Protection Agency and the Oregon Department of Environmental Quality (the federally designated management agency) on water quality standards and other requirements of the federally designated management agency as authorized by the Clean Water Act. Similarly, the BLM will coordinate with the Environmental Protection Agency, the Oregon Department of Environmental Quality, and the United States Forest Service to minimize the impacts of the emissions from prescribed burns.

## Other Plans

The BLM collaborates with many other agencies in the development and coordination of their plans for areas that are within and surrounding the BLM's planning area. *Table 14* identifies the various plans of these other agencies and their resources that are in common, dependent, or interdependent with the BLM's resource management plans.



Table 14. Other plan and resource coordination opportunities

Entity	Plan/Program	Common Resources or Dependencies
County/City		
Counties	<ul style="list-style-type: none"> <li>Land use plans</li> <li>Wildfire plans</li> </ul>	Timber, fuels management, and payments in lieu of taxes
Cities	<ul style="list-style-type: none"> <li>Land use plans</li> <li>Community wildfire protection plans</li> </ul>	Fuels management and communities at risk
State		
Office of the Governor	Statewide planning goals	Soil, timber, water, fish, wildlife, and habitat
Department of Environmental Quality	<ul style="list-style-type: none"> <li>BLM water quality restoration plans</li> <li>Water quality management plans</li> <li>Total maximum daily loads (TMDLs)</li> <li>Smoke management plans</li> </ul>	Streams, watersheds, air and water quality standards, beneficial uses, and BLM water quality restoration plans
Department of Forestry	<ul style="list-style-type: none"> <li>State forest management plans</li> <li>Fire plans</li> <li>Rules of the Oregon Forest Practices Act</li> </ul>	Watersheds and timber
Department of Fish and Wildlife	<ul style="list-style-type: none"> <li>Comprehensive Wildlife Conservation Strategy (Oregon Conservation Strategy)</li> <li>Oregon Plan for Salmon and Watersheds</li> </ul>	Wildlife, habitat, and fisheries
Division of State Lands, Natural Heritage Program	<ul style="list-style-type: none"> <li>Rare and Endangered Invertebrate Program (Oregon)</li> <li>Oregon Natural Heritage Program</li> </ul>	Special status species and natural areas
Department of Human Resources	Public water system standards	Surface water
Department of Agriculture	State listed endangered species Noxious Weed	Botanical species Noxious weed list and control
Department of Parks and Recreation	Off-highway vehicle (OHV) plans	Off-highway vehicle (OHV) trails
Federal		
United States Forest Service	Land and resource management plans	Wildlife, fisheries, habitat, streams, watersheds, timber, fuels management, and communities at risk
National Marine Fisheries Service	<ul style="list-style-type: none"> <li>Recovery plans for threatened and endangered species</li> <li>ESA, Section 7 (Consultation)</li> </ul>	Threatened and endangered fish species and habitat
United States Fish and Wildlife Service	<ul style="list-style-type: none"> <li>Recovery plans for threatened and endangered species</li> <li>ESA, Section 7 (Consultation)</li> </ul>	Threatened and endangered wildlife species and habitat
Environmental Protection Agency	Clean Water Act	Streams, watersheds, total maximum daily loads (TMDLs)
National Resources Conservation Service	Watershed plans	Streams and watersheds
Tribes		
Coquille Indian Tribe	Coquille Forest	Soil, timber, water, fish, wildlife, and habitat

