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Mt. Hood National Forest, Zigzag and Hood River Ranger Districts

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Draft Record of Decision

Government Camp – Cooper Spur Land Exchange Project, including Forest Plan Amendment #21

Clackamas and Hood River Counties, Oregon



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Introduction

This draft Record of Decision is made available with the Final Environmental Impact Statement (FEIS) for the Government Camp – Cooper Spur Land Exchange Project pursuant to 36 CFR 218.7(b) and 36 CFR 219.16(a)(3). The Government Camp – Cooper Spur Land Exchange FEIS contains an in-depth discussion of the setting, purpose and need for action, proposed action designed to achieve the purpose and need, alternatives considered, and the effects or benefits of those alternatives.

All references are to the FEIS unless specified otherwise. The FEIS is incorporated by reference, summarized below, and can be found on the [Forest's website](#).¹ Acreage for the parcels to be exchanged was determined by a licensed surveyor. However, all metrics (e.g., acres and miles) for other lands are approximate because they are derived from Geographic Information Systems (GIS). Similarly, the analyses found in chapter 3 of the FEIS are based on GIS, unless otherwise stated. The Mt. Hood National Forest is referred to as 'the Forest' in this document. The Mt. Hood National Forest Land and Resource Management Plan (1990) and Standards and Guidelines, as amended, are referred to as the 'Forest Plan' in this document.

Background

In 2005, the Board of Commissioners of Hood River County; the Hood River Valley Residents Committee; Mt. Hood Meadows Oregon Limited Partnership, Mt. Hood Meadows Development Corp., Meadows North, LLC, Meadows Utilities, LLC, and North Face Inn (collectively "Mt. Hood Meadows") signed an agreement wherein they would propose a land exchange to the Forest Service. The exchange would consist of the conveyance of 120 acres of land near Government Camp from the Forest Service to Mt. Hood Meadows, and the Forest Service's acquisition of 770 acres of privately owned land in the vicinity of the Cooper Spur Mountain Resort area. The agreement also included a proposal to establish certain existing National Forest System lands near the Cooper Spur Ski Area and Mt. Hood Wilderness-Tilly Jane area as congressionally designated wilderness, to place protections on Forest Service land in the Crystal Springs Watershed, and to convey all personal property and improvements owned by Meadows North, LLC dba Cooper Spur Ski Area, located at the Cooper Spur Ski Area to the Forest Service.

Congress eventually directed the Forest Service to carry out a land exchange, consistent with certain conditions and criteria, in Section 1206(a) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11, 123 Stat. 1018). (This act is hereafter referred to as the Omnibus Act.) The Omnibus Act directed the Forest Service to convey National Forest System lands in Government Camp to Mt. Hood Meadows if that entity conveyed specified private lands at Cooper Spur, and any buildings, furniture, fixtures, and equipment at the Cooper Spur Mountain Resort and the Cooper Spur Ski Area to the United States, subject to several mandatory conditions and the agency's legal obligations. Further direction for this land exchange was provided in the Mount Hood Cooper Spur Land Exchange Clarification Act of 2018 (Public Law 115-110, 131 Stat. 2270). (This act is hereafter referred to as the Clarification Act.)

The Omnibus Act and Clarification Act set forth two related actions triggered into effect upon completion of the land exchange. One related action involves establishing the Crystal Springs Watershed Special Resources Management Unit from the non-Federal parcels, as well as existing National Forest System

¹ <https://www.fs.usda.gov/project/?project=33072>

lands. The second related action involves a change in designation of National Forest System lands to congressionally designated wilderness.

Consistent with the National Environmental Policy Act, the effects of these land exchange actions were analyzed in the Government Camp-Cooper Spur Land Exchange Final Environmental Impact Statement (FEIS) (January 2021). Specifically, the FEIS discusses the proposal to exchange up to 107² acres of National Forest System lands for up to 764 acres of privately owned land. Several alternatives to the proposal were considered, with some were eliminated from detailed analysis. Two alternatives were analyzed in detail: Alternative 1: No Action and Alternative 2: Proposed Action.

Draft Decision

After careful review of the analysis documented in the FEIS, appraisal values, and public comments, I have decided to implement Alternative 2: Proposed Action with several modifications. This decision will involve the exchange of approximately 67 acres of National Forest System lands identified in the FEIS as Parcels P-1 and P-2 located in Clackamas County, Oregon (Appendix A and Appendix C-Figure 1), for approximately 605 acres of offered non-Federal lands owned by Mt. Hood Meadows, Oregon, LTD., also known as Mt. Hood Meadows, Oreg., LTD, a limited partnership, owner of Tracts #1, 2, 3 and 8; and improvements and personal property located at the Cooper Spur Ski Area owned by Meadows North, LLC dba Cooper Spur Ski Area, each managed by Mt. Hood Meadows. These parcels of land are in Hood River County, Oregon (Appendix B; Appendix C-Figure 2).

Table 1 outlines the parcel name, county tax lot number, acres, legal description, and appraised values of Federal and non-Federal parcels included in my decision.

Table 1. Parcel information of lands included in this exchange

Parcel Name	County Tax Lot Number	Acres	Legal Description	Appraised Tax Lot Value
West Parcel (P-1) Federal Land	38E00130	66.78	Government Lots 7 & 8 Sec.13-T3S, R8E	\$3,759,300
South Loop Road Parcel* (P-2) Federal Land	38E24AB00200	0.45	Part of NWNE, Sec. 24-T3S, R8E	N/A - This parcel is combined with P-1 for valuation.
Tract 1** Non-Federal Land	01S09E00104	90.84	Part of E1/2SE1/4, E1/2NE1/4, Sec. 36-T1S, R9E	\$429,000
Tracts 2 & 3*** Non-Federal Land	01S10E3100100 01S10E3100501	Tract 2 - 343.58 Tract 3 - 131.02 Total = 474.61	Parts of Sec. 31-T1S, R10E	Tract 2 - \$2,178,000 Tract 3 - \$495,000
Track 8 Non-Federal Land	01S10E3001500	39.71	SE1/4SE1/4 Sec. 30-T1S, R10E	\$198,000

*Parcel P-2: Although Clackamas County has assigned this parcel a tax lot number, Federal lands are not taxable; therefore, the Federal Government does not recognize county tax lot numbers assigned to National Forest System lands for parcel identification purposes. The appraisal assignment did not include appraising the Federal land by Tax Lot.

**Tract 1 + Tax Lot 01S10E3100501 = 1 Legal Tax Lot.

***Tracts 2 + 3 = 1 Legal Tax Lot that must be conveyed together per County Zoning Regulations.

² As stated in the Introduction, the parcel acres to be exchanged have been determined by a licensed surveyor, which differ slightly than what was included in the Omnibus Act. However, all other metrics for other locations (e.g., wilderness addition) are approximate because they are derived from Geographic Information Systems (GIS). Similarly, the analyses found in chapter 3 of the FEIS are based on GIS, unless otherwise stated. GIS was used in the analyses to ensure data consistency amongst the resource analyses.

This decision also includes the following:

- Non-exclusive easements of 24 feet in width for three existing non-motorized trails located on the conveyed Federal parcel P-1 will be reserved under the authority of the Clarification Act. These trails include Maggie’s Trail #753, Wally’s Tie Trail #755A, and Skiway Trail #755B (Appendix C-Figure 1). The easements will allow the Forest Service to construct, reconstruct, maintain, and permit non-motorized use by the public subject to the right of the owner of the conveyed Federal land to cross the trails with roads, utilities, and infrastructure facilities; and to improve or relocate the trails to accommodate future development of the land.
- For Parcels P-1 and P-2, existing special use permits for electrical transmission lines, and sewage transmission line will be amended to delete those portions on these parcels. Mt. Hood Meadows will enter into easements with the utility companies to continue their respective use. Mt. Hood Meadows has drafted leases that allow the Mt. Hood Ski Patrol Building and the Hoodland Fire District #74 Fire Station to remain in use on these lands. Expired special use permits for the following utilities located on the Federal parcels and other National Forest System lands will need to be authorized after separate analysis and separate decision to the current owners of the existing utilities: CenturyTel of Eastern Oregon d/b/a CenturyLink, Government Camp Communication Company, and Government Camp Water Company.
- The patent, being the conveyance document for the Federal lands, will include a requirement to meet Section 1206(d)(1) of the Omnibus Act.³ Requirements applicable to the conveyance of Federal land include that applicable construction activities and alterations shall be conducted in accordance with nationally recognized building and property maintenance codes; and nationally recognized codes for development in the wildland-urban interface and wildfire hazard mitigation.
- The buildings, improvements, and personal property associated with the Cooper Spur Ski Area will be transferred through acquisition to the Forest Service. A special use permit prospectus and application(s) will be analyzed and offered toward issuance for the operation and maintenance of the Cooper Spur Ski Area (approximately 61 acres) (Appendix C-Figure 3), in which the permit holder will be responsible per terms and conditions and operation plan(s) under the special use permit. The term of the permit(s) may be for up to 40 years. The permit holder will be required to pay the Forest Service a percentage of gross receipts, or other approved fee structures under special uses policy, dependent upon the use and activities. The special use permit prospectus will have evaluation criteria to screen for a viable operator. If no viable business proposals are submitted, the Forest Service may then sell the facilities (not including the underlying lands). There would be a prospectus to solicit proposals for viable business operation, including purchase and use through a special use permit, or purchase and off-site removal of the excess facilities. If there is no interest expressed for operation and maintenance of the Cooper Spur Ski Area, then these facilities will be decommissioned, demolished and removed off site pending available funds.
- Approximately 1,709 acres of existing National Forest System lands will become part of the Mt. Hood Wilderness – Tilly Jane (Section 1202(2)(c) of the Omnibus Act) (Appendix C-Figure 4). The Forest Plan will be amended (amendment #21) to change the 1,709 acres to A2-Wilderness. The Forest Plan wilderness goals (p. Four-136), standards and guidelines (pp. Four-138 to Four-144) will apply to these lands. These lands will be identified as Congressionally Reserved under the Northwest Forest Plan.

³ The Omnibus Act states that a “deed” is the conveyance instrument, which the Forest Service interprets as amounting to and equating to a “patent” since that is the instrument that the Forest Service uses to convey fee interests in Federal lands.

- Approximately 2,701 acres of existing National Forest System lands and the acquired lands will become designated as the Crystal Springs Watershed Special Resources Management Unit (Appendix C-Figure 5). The Forest Plan will be amended (amendment #21) to designate the area as A14-Crystal Springs Watershed Special Resources Management Unit (herein referred to as the ‘Management Unit’). See Appendix D for the management direction for this new land use allocation. These lands will be identified as Administratively Withdrawn and Riparian Reserves under the Northwest Forest Plan.
- With the designation of the Crystal Springs Watershed Special Resources Management Unit, the following existing land use allocations will no longer apply within the Management Unit: A4-Special Interest Area for the Cloud Cap-Tilly Jane Historic District; A11-Winter Recreation Area; B2-Scenic Viewshed; and C1-Timber Emphasis.
- This exchange meets the equal value provisions of the Clarification Act and is consistent with 36 CFR 254.3 to the extent it applies. The Clarification Act contains congressional direction that overrides some of the requirements of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716) (Forest Service Manual 5409.13, Chapter 31, Section 13). The Federal land has an approved value of \$3,759,300; and the non-Federal land, improvements, and personal property have an approved value of \$4,098,240. Therefore, my decision includes a cash equalization payment of \$338,940 to be made to Mt. Hood Meadows by the United States, as provided under the Clarification Act and consistent with 36 CFR 254.12. Additionally, this cash equalization will meet the requirements of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716).
- With this decision, the Forest Service will retain the 40-acre Parcel P-3 adjacent to Government Camp. Mt. Hood Meadows will retain Tracts 4, 5, 6, and 7, which total approximately 158 acres including the Cooper Spur Mountain Resort. Table 2 outlines the parcel name, county tax lot number, acres, legal description and appraised values of Federal and non-Federal parcels that are **not** included in my decision.

Table 2. Parcel information of lands not included in this exchange

Parcel Name	County Tax Lot Number	Acres	Legal Description	Appraised Tax Lot Value
East Parcel (P-3) Federal Land	38Q00130	40.00	SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14-T3S, R8 $\frac{1}{2}$ E	\$1,899,200
Tracts 4 & 6* Non-Federal Land	02S10E0600102	Tract 4 - 115.50 Tract 6 - 1.58 Total = 117.08	Part of Homestead Entry Survey (HES) 151 Sec. 6 & 7-T2S, R10E	\$2,003,923
Tract 5 Non-Federal Land	02S10E0600103	2.83	Part of Homestead Entry Survey (HES) 151 Sec. 6- T2S, R10E	\$1,996,961
Track 7 Non-Federal Land	02S10E0600100	39.29	Part of Homestead Entry Survey (HES) 151 Sec. 6- T2S, R10E	\$610,877

*Tracts 4 (& formerly listed Tract 6) = Tax Lot 102 is one legal tax lot.

Reason for the Decision and Public Interest Determination

I reviewed the FEIS, related project file documents, public and other agency comments, and applicable laws, regulations and executive orders. I believe the information provided to me is adequate for a reasoned choice of action and this exchange serves the public interest. My reasons for proceeding with this action are as follows:

1. My decision will meet the congressional intent outlined in the Omnibus Act and Clarification Act, as well as comply with other Federal laws, including the Federal Land Policy and Management Act of 1976, and agency regulations including 36 CFR 254.3(b) Determination of Public Interest. Congress legislated this land exchange in the interest of the public. My decision also honors our cooperative engagement with Mt. Hood Meadows and reflects the agreement between the Forest Service and Mt. Hood Meadows regarding an appropriate area of lands to be exchanged as necessary to equalize appraised values.
2. By amending the Forest Plan to include the newly established Crystal Springs Watershed Special Resources Management Unit, my decision places protections on the land within the zone of contribution for the Crystal Springs Watershed, thereby maintaining high water quality on the north side of Mount Hood. I find this Forest Plan amendment (amendment #21) is not significant under the 1982 planning regulations (Forest Service Manual 1926.5).
3. My decision will also allow for the expansion of the Mt. Hood Wilderness to occur, thus, also offering additional protections to the land on the north side of Mount Hood. This expansion will be called the Mt. Hood Wilderness – Tilly Jane.
4. With this decision, approximately 3.3 acres of wetlands will be conveyed to Mt. Hood Meadows on Parcels P-1 and P-2; whereas approximately 5.2 acres of wetlands will be retained as federally managed on Parcel P-3. Also, approximately 2.6 acres of wetlands on the non-Federal lands (Tract 2) will be conveyed to the United States. This exchange is consistent with Executive Orders 11988 and 11990 and implementing regulations and Forest Service Manual direction.
5. With the modifications made to Alternative 2, the cultural resources associated with the eastern parcel (P-3) at Government Camp will no longer be negatively affected by this land exchange because it will remain in Federal ownership. Additionally, transferring lands out of Federal ownership (i.e., loss of ceded lands) was found to have an unavoidable adverse effect to treaty rights. The modifications made to Alternative 2 will reduce the amount of ceded lands lost in Government Camp to approximately 67 acres, rather than approximately 107 acres.
6. The exchange will result in an overall land base increase of 605 acres to the Federal estate in Hood River County, Oregon. There will be a decrease of 67 acres of Federal land in Clackamas County. The intended use of the conveyed Federal land will not substantially conflict with established management objectives on adjacent National Forest System lands. Local county zoning and ordinances will regulate the amount and type of future development on the property.
7. While there are environmental tradeoffs with any decision, I believe that Alternative 2, as modified, best meets the requirements of the legislation guiding this exchange. Congress determined this land exchange well serves the public interest by directing the Forest Service to carry it out under the conditions and requirements of the Omnibus Act and Clarification Act. I, therefore, recognize this is not a discretionary and voluntary transaction that would be dependent on separate public-interest findings by the Forest Service. In an abundance of caution and in the alternative, if 36 U.S.C. § 254.3(b) were deemed to apply here, I find that this exchange well serves the public interest in light of the factors provided in section 254.3(b)(1). In reaching this finding, I find that the resource values

and the public objectives served by the non-Federal lands and interests to be acquired will at least equal or exceed the resource values and the public objectives served by the Federal lands to be conveyed. Both the acquired and conveyed lands serve important resource values and public interests, as documented in the FEIS and other documents in the project record. The Forest Service will be gaining a net acreage through this exchange totaling approximately 538 acres on the Mt. Hood National Forest, and as a condition of completion of the exchange, will be able to newly designate other Federal lands for wilderness and watershed-protection purposes that serve important resource values and public objectives. As part of my (alternative) public-interest finding, I also find that the intended use of the conveyed Federal land will not substantially conflict with established management objectives on adjacent Federal lands because this area already supports providing high-quality recreation opportunities in an area highly used by the public. Given the congressional direction that requires this exchange, I also find that both Alternative 2 and Alternative 2, as modified, are the environmentally preferable alternatives. All practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

8. My decision will enable the Cooper Spur Ski Area to continue to provide service to the public. If a qualified applicant to operate and maintain this ski area is authorized via special use permit, then this recreation site will remain a place local community members and others can enjoy.
9. With this decision, the Cooper Spur Mountain Resort will continue to be held in private ownership and managed by Mt. Hood Meadows. Analysis of the facilities resulted in a determination that it is not in the public interest for the U.S. Government to own and operate this resort either authorized under special use permit or operated and managed by Forest Service staff.

Forest Service Handbook 1909.15, chapter 10, provides a process for making incremental changes to alternatives. Ongoing analysis, final appraisal results, and negotiations with Mt. Hood Meadows have resulted in modifications to Alternative 2 compared to what was described at the time of scoping, and what was disclosed in the DEIS. However, because the DEIS and FEIS disclosed and analyzed the effects of the exchange on all Federal and non-Federal lands included in the legislation, and effects of this decision can be understood by distinguishing effects by parcels, I find that my decision is still within the context of the resource benefits and impacts disclosed. Therefore, there was no need to analyze separate alternatives in detail that excluded or included certain parcels. In sum, I believe these changes result in a better decision.

Required Mitigation

Memoranda of agreement have been developed, but are not yet signed, to mitigate the adverse effects to sites eligible for inclusion on the National Register of Historic Properties. The memoranda of agreement are required to comply with Section 106 of the National Historic Preservation Act, as amended and pursuant to 26 CFR 800, the regulations implementing Section 106. The mitigation measures stated in the draft agreements may be required for implementing the selected alternative and are hereby incorporated as part of this Record of Decision. Mitigation measures include, but are not limited to, documenting eligible cultural resources on the conveyed Federal lands.

Other Alternatives Considered

In addition to the selected alternative, I considered six other alternatives. With Alternative 1: No Action, which was analyzed in detail, the land exchange would not occur. This alternative was not selected because it does not meet the purpose and need for the project as described in chapter 1 of the FEIS, nor would this alternative carry out the congressional direction of the Omnibus Act and Clarification Act.

I also considered five alternatives that were eliminated from detailed study. These alternatives included: (1) Direct Purchase; (2) Deed Restriction; (3) Mt. Hood Meadows Continues to Operate the Cooper Spur Ski Area; (4) Forest Service Operates the Cooper Spur Ski Area; and (5) Expand the Cooper Spur Ski Area. These alternatives were found to be either duplicative of an existing alternative; not meet current direction or policy; or not be reasonably feasible or viable.

A more detailed discussion of these alternatives and my reasons why I have not considered them further can be found in the FEIS on pages 50–53.

Public Involvement

Public involvement is described in detail in the FEIS on pages 22–23. The public was formally notified of the land exchange proposal in 2010, and again in 2016. A notice of intent to prepare an environmental impact statement was published in the *Federal Register* on February 16, 2016. This notice initiated a 30-day comment period for the public to provide input to help inform the Forest Service's scoping process. An information package was also posted online and mailed to 300 agencies, individuals, and organizations on February 11, 2016. The Forest Service received 18 scoping letters from individuals and organizations.

The DEIS was released for public comment in October 2016. A legal notice for the opportunity to comment was published in *The Oregonian* (newspaper of record) on October 28, 2016. A notice of availability of the DEIS was published in the *Federal Register* on October 28, 2016 to initiate the 90-day comment period. This notice asked for public comment on the DEIS from October 28, 2016 through January 26, 2017. Also, a letter notifying interested parties of the opportunity to comment on the DEIS was mailed to 85 agencies, individuals, and organizations. The DEIS was also posted on the project website. The Forest Service received 707 letters from agencies, individuals, and organizations, including 672 form letters and 35 unique letters. The form letters expressed concerns about road building and special provisions associated with the Crystal Springs Watershed Special Resources Management Unit, as well as requesting a fair and objective appraisal. Comments from the unique letters focused on: Clackamas County zoning ordinances; NEPA sufficiency including alternative development and the proposed Forest Plan amendment; protection of the Crystal Springs Watershed Special Resources Management Unit; wetland conservation and trail easements; adequacy and fairness of the appraisal; and, specific comments on analysis disclosed in the DEIS. A discussion of the concerns is included in the FEIS on pages 24–27. Also, a response to public comments is available in the FEIS, Appendix C.

Tribal Involvement

Tribal engagement occurred throughout the planning process. A description of tribal consultation is included in the FEIS on pages 23-24. A discussion of the project's impacts on treaty rights is included in the FEIS on pages 82–89. Transferring lands out of Federal ownership (i.e., loss of ceded lands) was found to have an unavoidable adverse effect to treaty rights.

In 2009, both the Confederated Tribes of Warm Springs and the Confederated Tribes of Grand Ronde were sent a cultural resources report for the project. Based on ongoing communication between the Forest and the Confederated Tribes of Warm Springs and Confederated Tribes of Grand Ronde, a revised cultural resources report was sent to both Tribes in 2016. Over the past several years, additional meetings have occurred, and communication is ongoing. Tribal consultation will be completed before the final Record of Decision is signed.

Findings Required by Other Laws and Regulations

The analysis of exchanging land between Federal and non-Federal entities must comply with numerous statutory requirements, including the following.

National Forest Management Act

I find that this decision to exchange lands is consistent with the management direction, goals, and objectives of the Forest Plan (USDA Forest Service 1990). Each resource section in the FEIS, chapter 3, discusses consistency with the Forest Plan as amended by the Northwest Forest Plan (USDA and USDI 1994).

This decision is also consistent with the Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (USDA Forest Service et al. 2001). A discussion of the Survey and Manage species can be found in the FEIS in the botany and wildlife sections of chapter 3 (FEIS pp. 69 and 349). While there is potential habitat in the Federal (Government Camp) parcels for 234 Survey and Manage botanical species (192 fungi, 25 lichens, 10 bryophytes, and 7 vascular plants), no Survey and Manage species were discovered during field surveys (FEIS pp. 69-70). The conveyance of the Government Camp parcels to private ownership could result in the loss of this habitat. If individuals are present on the Government Camp parcels, then they would be lost once development occurs (FEIS p. 70). Four Survey and Manage wildlife species have potential to occur in the Government Camp parcels, but there are no known existing occurrences. Three of the species were addressed as sensitive species. There are 6 acres of potential habitat (wetland) for a fourth species, but the impacts to that species depend on the extent of development near its potential habitat. These 6 acres represent 0.1 percent of all potential habitat on the Forest; therefore, the decision would not significantly affect the population's persistence on the Forest (FEIS p. 353).

The Forest Plan amendment (amendment #21), which is part of this decision, removes the offered Federal parcels from the Mt. Hood National Forest. The Forest Plan, as amended by the Northwest Forest Plan, would no longer be applicable to these lands once the land exchange is complete. As such, the aquatic conservation strategy, which was developed as part of the Northwest Forest Plan to protect salmon and steelhead habitat on Federal lands, would not apply (FEIS, pp. 15–16). In the future, if any ground-disturbing activities are proposed for the acquired lands, then the aquatic conservation strategy objectives will be applicable as described in the Northwest Forest Plan (ROD, p. B-10).

I find that this decision is consistent with Forest Plan direction for management indicator species. A discussion of the management indicator species can be found in the FEIS in the fisheries and wildlife sections of chapter 3. Because of their relative sensitivity to change, salmonids were selected as “an indicator species group” for aquatic habitats. Continued viability of cutthroat trout and other salmonid management indicator species is expected, as the potential loss of habitat due to increases in disturbance was determined to be insignificant at the scale of the Mt. Hood National Forest (FEIS pp. 142–143). The land exchange will not contribute to a negative trend in viability on the national forest for any of the five wildlife management indicator species (northern spotted owl, American marten, pileated woodpecker, deer, or elk) (FEIS pp. 335-347).

Effects to Regional Forester's sensitive species are addressed in the botany, fisheries, and wildlife sections of the FEIS in chapter 3. No sensitive botanical species were found during botany surveys and there are no known sites recorded for sensitive species on the Government Camp parcels. There is potential habitat that will be lost (FEIS p. 74) due to the conveyance of the Federal parcels. The biological evaluation findings for the botanical species with either no presence or assumed presence were either: (a)

no environmental impacts on the habitat, individuals, a population, or a species; or, (b) may impact individuals or their habitat, but will not likely contribute to a trend toward Federal listing of the species or a loss of viability to the species (FEIS pp. 70–80). For wildlife sensitive species, it was determined that this decision may impact individuals or habitat, but is not likely to cause a trend to Federal listing or loss of viability to the population or species for the following: Sierra Nevada red fox; Cope's giant salamander; Larch Mountain salamander; Johnson's hairstreak; fringed myotis; Townsend's big-eared bat; Mardon skipper; western bumblebee; and Crater Lake tightcoil (FEIS p. 354). For aquatic sensitive species, it was determined that this decision may impact individuals or habitat, but will not likely contribute to a trend toward Federal listing or loss of viability to the population or species for the following: Pacific lamprey, redband trout, cutthroat trout, Rocky Mountain dusksnail, caddisfly, Farulan caddisfly, and Scott's apatanian caddisfly (FEIS p. 142).

36 CFR 219 Planning Regulations (1982 Planning Rule) – Forest Plan Amendment #21

This decision includes Forest Plan amendment #21, which is a programmatic amendment to assign land use allocations to the newly acquired lands, change the land use allocation for the wilderness addition and the Crystal Springs Watershed Special Resource Management Unit, and add standards and guidelines for the Crystal Springs Watershed Special Resource Management Unit. Also, the conveyed lands at the Government Camp will be removed from the Forest Plan. This amendment creates land use allocation A14-Crystal Springs Watershed Special Resource Management Unit. These changes will make the Forest Plan consistent with the Omnibus Act.

The Northwest Forest Plan overlapping land use allocations will change as a result of this Forest Plan amendment. The lands within the Mt. Hood Wilderness-Tilly Jane addition are changed to Congressionally Reserved under the Northwest Forest Plan, per congressional direction. Similarly, the lands within the Crystal Springs Watershed Special Resource Management Unit and other lands acquired in the Cooper Spur area will be changed to Administratively Withdrawn and Riparian Reserves, per congressional direction.

As stated in 36 CFR 219.17(b)(3), a Forest Plan amendment initiated before May 9, 2012, may be completed in conformance with the provisions of the prior planning regulation. Since scoping for this project initially began in 2010, this project adheres to the amendment procedures under the 1982 planning regulations. The regulations state: “If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures” (36 CFR 219.10(f)). The proposal to amend the Forest Plan was described in scoping notices mailed to the public in November 2010, and again in February 2016. Analysis of these proposed changes was included in the DEIS released for public comment in October 2016.

Additional guidance on amending forest plans is provided in the Forest Service Manual 1900-Planning (January 31, 2006), which describes non-significant amendments under the 1982 planning regulations (Section 1926.51). An evaluation of the significance of the Forest Plan amendment is documented throughout chapter 3 of the FEIS. I find that this amendment does not significantly alter the multiple-use goals and objectives for long-term land and resource management. The changes to the Forest Plan will facilitate and contribute to the multiple-use goals established by Congress in the Omnibus Act and Clarification Act.

Migratory Bird Treaty Act

This decision complies with the Migratory Bird Treaty Act. An analysis of effects to migratory birds is discussed in the FEIS on pages 347–349.

The conveyance of Federal land may result in private development leading to habitat removal on about 67 acres for species associated with the following habitat types: mature and young forest habitat components (hermit warbler, Pacific-slope flycatcher, Wilson's warbler, and winter wren); early seral open habitat (olive-sided flycatcher, western bluebird, orange-crowned warbler, and rufous hummingbird); and montane wet meadow (Lincoln's sparrow). The acquisition of non-Federal parcels would increase Federal ownership of habitats, which may potentially provide habitat for brown creeper (approximately 30 acres) and non-breeding Sandhill crane (33 acres). In the long term, growth and development of forested stands at Cooper Spur could provide almost 400 acres of habitat for species associated with mature east-side mixed conifer forest (brown creeper, Williamson's sapsucker, and hermit thrush). However, long-term stand growth would also diminish existing edge habitat and early successional areas that currently favor foraging by olive-sided flycatchers. In short, the land exchange may affect habitat for individual migratory birds, but is not expected to have a measurable effect on their overall habitat or populations because of the large amount of available habitat near the Federal and non-Federal parcels (FEIS p. 349)

Endangered Species Act

This decision complies with the Endangered Species Act. Biological assessments analyzing the effects to Endangered Species Act-listed wildlife and aquatic species were completed. Also, effects to Endangered Species Act-listed species are disclosed in the FEIS on pages 141–142 and 354. Regarding the northern spotted owl, there will be no direct effects, but the loss of 19 acres of suitable habitat creates an indirect effect. It was therefore determined that this decision may affect, and is likely to adversely affect the northern spotted owl because suitable habitat could be removed in the future on the current Federal lands that will be conveyed to Mt. Hood Meadows (FEIS p. 305). Conversely, Federal acquisition of the Cooper Spur parcels will place approximately 30 acres of marginally suitable habitat under Forest Service management. These lands will receive consideration as spotted owl habitat for future management per Forest Plan and Endangered Species Act requirements (FEIS p. 303).

Although no direct effects to Endangered Species Act-listed fish species were identified, the land exchange indirectly may affect, and is likely to adversely affect Lower Columbia River winter steelhead trout, Lower Columbia River Chinook salmon, and Lower Columbia River coho salmon based on the potential for increases in sediment, turbidity, and embeddedness. Also, changes to water quality could impair navigation or reduce food sources; and increases in peak or base streamflow could reduce suitable in-channel habitat for rearing, spawning, or migration (FEIS pp. 124–129, 141-142).

The project may adversely modify designated critical habitat for Lower Columbia River steelhead, Chinook salmon, and coho salmon in the Zigzag Watershed. This conclusion was reached because future private development of the current Federal lands to be conveyed could measurably modify physical and biological features including freshwater spawning sites, freshwater rearing sites, and freshwater migration corridors (FEIS p. 142).

Endangered Species Act consultation will be completed before the final Record of Decision is signed.

Magnuson-Stevens Fishery Conservation and Management Act

Effects on essential fish habitat were analyzed in the FEIS on pages 124–142. The analysis concluded that the project could lead to private development that would adversely affect essential fish habitat for Lower Columbia River Chinook and coho salmon in the Zigzag Watershed (FEIS pp. 141-142).

National Historic Preservation Act

This decision is consistent with the National Historic Preservation Act. Cultural resources and treaty rights were analyzed in the FEIS on pages 81–89. With converting the forested landscape of the parcels P-1 and P-2 at Government Camp to non-forested lands, the integrity of Skiway Trail, which is potentially eligible as a historic trail, could be degraded with the loss of feeling, setting, and association of the resource as the forested landscape. Conveyance of the Mt. Hood Ski Patrol Building, an eligible cultural resource, is considered an adverse effect as a result of change to private ownership because Section 106 under the National Historic Preservation Act will no longer apply. Within the Cooper Spur parcels, none of the structures are eligible resources; therefore, this decision will not have an effect to historic resources. Consultation with the State Historic Preservation Office will be completed before the final Record of Decision is signed.

The Forest Service will acquire approximately 605 acres of ceded lands for the Confederated Tribes of Warm Springs. While there will be a loss of approximately 67 acres of ceded land with the Federal parcels, the net gain of approximately 538 acres of ceded lands will benefit this Tribe as the Forest Service fulfills its trust responsibility on these lands. The land exchange results in a loss of 67 acres of ceded land for the Confederated Tribes of Grand Ronde.

Clean Water Act

The Clean Water Act of 1977 and subsequent amendments established the basic structure of regulating discharges of pollutants into waters of the United States. The Environmental Protection Agency has the authority to implement pollution control programs and to set water quality standards for all contaminants in surface waters. The Environmental Protection Agency delegated implementation of the Clean Water Act to the states; the State of Oregon recognizes the Forest Service as the Designated Management Agency for meeting Clean Water Act requirements on National Forest System lands. Compliance with the Clean Water Act by the Forest is achieved under Oregon state law.

The Forest Service strategy for control of nonpoint source pollution is to apply appropriate best management practices using adaptive management principles. This strategy involves applying approved best management practices, monitoring the implementation and effectiveness of the best management practices, and using the monitoring results to inform and improve management activities (USDA Forest Service 2012a). Protecting water quality is addressed in several sections of the Clean Water Act including sections 303, 313, and 319. Best management practices are used to meet water quality standards (or water quality goals and objectives) under Section 319.

The assumptions made for the development of the offered Federal parcels are not site-specific (that is, the analysis assumes the amount and type of development, but the specific locations are not known), so it is infeasible to apply project-specific best management practice requirements, as outlined in Appendix H of the Forest Plan. Also, once the lands are conveyed to a private entity, the Forest Service will no longer have management authority for these lands except for the reservations stated in the patent, including but not limited to the non-exclusive easements for the existing recreation trails. For these reasons, the management direction regarding the best management practice implementation process included in Appendix H of the Forest Plan is not applicable to this land exchange.

The hydrology section of the FEIS at pages 14–15, 166–168 and 192–205 discusses compliance with the Clean Water Act. Water quality indicators and measures assessed as part of the hydrology analysis included water quality limited streams, stream temperature compliance with state standards, sediment delivery as related to land use and roads, in channel fine sediment levels and riparian processes indicators, namely AREMP⁴ 6th-field Watershed Assessment. Once the Federal parcels are conveyed to Mt. Hood Meadows, it will be the responsibility of Mt. Hood Meadows to ensure its actions implement conservation measures consistent with meeting the requirements for the Oregon Revised Statute 468B.025 and the Clean Water Act.

Executive Orders 11990 (Wetlands) and 11988 (Floodplains)

Impacts to water resources including wetlands and floodplains were considered and analyzed in the FEIS on pages 270-271 and 272–273. With this decision, approximately 3.3 acres of wetlands will be conveyed to Mt. Hood Meadows on Parcels P-1 and P-2; whereas approximately 5.2 acres of wetlands will be retained as federally managed on Parcel P-3. Also, approximately 2.6 acres of wetlands on the non-Federal lands (Tract 2) will be conveyed to the United States. This exchange is consistent with Executive Order 11990. This decision is also in compliance with Executive Order 11988. No floodplains will be affected by this land exchange.

Minerals Potential Report

The minerals potential report MP-616: MTH #355 dated May 20, 2014, was reviewed and considered in this decision. This report is located in the project file. Upon this exchange, the acquired, non-Federal lands will become part of the Crystal Springs Watershed Special Resource Management Unit. This management unit will be subject to withdrawal from entry under the mining, mineral and geothermal leasing and mineral material laws (Public Law 111-11, Section 1205(C)).

Hazardous Materials Report

The Phase 1 Environmental Site Assessment report for the non-Federal land was completed November 20, 2009, as prepared by Mark Yinger Associates. The Phase 1 Environmental Site Assessment report for the Federal land, as prepared by White Shield, Inc. Project No. 209-040-01 was completed December 9, 2009. These reports have been reviewed and considered in this decision. In accordance with the existing regulations, these reports will be updated and included in the project file prior to exchange of the Deed and Patent documents. These reports are located in the project file.

Executive Order 12898 (Environmental Justice)

Environmental justice was analyzed in the socioeconomic section of the FEIS in chapter 3 (FEIS pp. 247–249 and 256–257). The project will result in improvements in environmental quality and improved recreation opportunities for many users. The land exchange will lower county revenues in Hood River County, which could affect county services, but the decrease is small and not expected to affect environmental justice communities. I have determined that this project does not exclude persons from participation in public involvement; deny the benefits of project benefits; or subject people to discrimination because of their racial, ethnic, or economic status. The activities carried out by this decision will not have disproportionately high and adverse health and environmental effects on minority or low-income populations, nor involve substantial environmental hazard or effects to differential patterns of natural resources.

⁴ Aquatic and Riparian Effectiveness Monitoring Plan

USDA Departmental Regulation 9500-3 – Land Use Policy

This regulation requires the Forest Service to consider the effect of converting prime farmland, rangeland, or timberland to other uses. Potential development of the conveyed Federal property from timberland to other uses has been considered and is discussed in chapter 3 of the FEIS. No prime farmlands or rangelands are located on the Federal parcels to be conveyed.

Pre-decisional Administrative Review Process

This decision is subject to pre-decisional administrative review pursuant to 36 CFR 218, subpart B. This is also referred to as the “objection process.” Because of the programmatic Forest Plan amendment (amendment #21), this decision is also subject to the objection process pursuant to 36 CFR Part 219 (FEIS pp. 20). Objections received, including names and addresses of those who object, will be considered part of the public record and will be available for public inspection.

36 CFR 218 – Project-level Objections

For objections to this land exchange (not specific to the Forest Plan amendment), the following information applies. Only individuals or entities that submit timely, specific written comments during a designated opportunity for public participation (scoping or the 90-day public comment period) may object (36 CFR 218.5). Notices of objection must meet the requirements of 36 CFR 218.8. Objections must be filed with the objection reviewing officer within 45 days from the date of publication of notice of the opportunity to object in *The Oregonian*. The publication date is the exclusive means for calculating the time to file an objection. Those wishing to file an objection to this draft decision should not rely upon dates or timeframe information provided by any other source. Objections sent by U.S. Postal Service or other private carrier must be postmarked or date stamped before the close of the objection period and must be received before the close of the fifth business day after the objection filing period.

Incorporation of documents by reference is not allowed, except for the following list of items that may be referenced by including date, page, and section of the cited document, along with a description of its content and applicability to the objection: (1) all or any part of a Federal law or regulation; (2) Forest Service directives and land management plans; (3) documents referenced by the Forest Service in the subject environmental assessment; or (4) comments previously provided to the Forest Service by the objector during public involvement opportunities for the proposed project where written comments were requested by the responsible official. All other documents must be included with the objection.

Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities for comment. The burden is on the objector to demonstrate compliance with this requirement for objection issues.

Minimum requirements of an objection are described at 218.8(d). An objection must include a description of those aspects of the proposed project addressed by the objection, including specific issues related to the proposed project; if applicable, how the objector believes the environmental analysis or draft decision specifically violates law, regulation, or policy; suggested remedies that would resolve the objection; supporting reasons for the objection reviewing officer to consider; and a statement that demonstrates the connection between prior specific written comments on the particular proposed project or activity and the content of the objection, unless the objection concerns an issue that arose after the designated opportunities for comment.

The objection reviewing officer is the Regional Forester. Due to Covid-19, we request that objections be submitted via email. If you are unable to submit an objection electronically, then please use postal delivery.

Email: We strongly encourage you to submit objections electronically. Objections can be filed via email to: objections-pnw-regional-office@usda.gov. Please put ‘Government Camp Land Exchange’ in the subject line. Electronic objections must be submitted as part of an actual e-mail message, or as an attachment in Microsoft Word (.doc or .docx), rich text format (.rtf), or portable document format (.pdf) only. Emails submitted to addresses other than the ones listed above or in formats other than those listed above or containing viruses will be rejected. It is the responsibility of the objector to confirm receipt of objections submitted by electronic mail. For electronically mailed objections, the sender should normally receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgement of receipt, it is the sender’s responsibility to ensure timely receipt by other means.

Mail: Objections can be mailed to the objection reviewing officer at: Regional Forester, Pacific Northwest Regional Office, Attn: 1570 Objections/Debbie Anderson, P.O. Box 3623, Portland, OR 97208-3623. Objections delivered by mail must be postmarked by the closing day of the objection filing period and received before close of the fifth business day following the end of the objection period.

FedEx or UPS Deliveries: Objections can also be submitted to the objection reviewing officer via FedEx or UPS delivery to: Regional Forester, Pacific Northwest Regional Office, Attn: 1570 Objections/Debbie Anderson, 1220 SW Third Avenue, Portland, OR 97204.

36 CFR 219 – Forest Plan Amendment Objections

For objections specific to the Forest Plan amendment, the following information applies. Only individuals or entities who have submitted formal comments related to the Forest Plan amendment during the opportunities for public participation (scoping or the 90-day public comment period) may file an objection. Objections, including attachments, must be filed within 60 days following the day after publication of the notice of the opportunity to object in *The Oregonian*, the newspaper of record. Objections or attachments received after the 60-day objection filing period will not be considered. The publication date in the newspaper of record is the exclusive means for calculating the time to file an objection. Those wishing to object to this Forest Plan amendment should not rely upon dates or timeframe information provided by any other source.

To file an objection regarding the Forest Plan amendment, please submit to the locations discussed above for filing project-level objections (36 CFR 218). Objections must be based on previously submitted substantive formal comments attributed to the objector unless the objection concerns an issue that arose after the opportunities for formal comment.

Prior to the issuance of the objection reviewing officer’s written response, either the objection reviewing officer or the objector may request to meet to discuss issues raised in the objection and their potential resolution. Interested persons who wish to participate in meetings to discuss issues raised by objectors must have previously submitted substantive formal comments related to the objection issues. Interested persons must file a request to participate as an interested person within 10 days after a legal notice of objections received has been published in the newspaper of record. Requests must be sent to the same email or address identified for filing objections, above, and the interested person must identify the specific issues they have interest in discussing. During the objection resolution meeting, interested

persons will be able to participate in discussions related to issues on the agenda that they have listed in their request to be an interested person.

Implementation

The land exchange can occur after the Final Record of Decision has been signed by the Responsible Official, Mt. Hood Forest Supervisor.

Contact Person

For additional information concerning this decision or the Forest Service objection process, contact Michelle Lombardo, Environmental Coordinator, at michelle.lombardo@usda.gov or call (503) 668-1796.

Unsigned until Final ROD is issued.

RICHARD PERIMAN
Forest Supervisor
Mt. Hood National Forest

DATE

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Appendix A: Description of Federal Lands

Lands, interest in lands, that the United States will convey to Mt. Hood Meadows:

Willamette Meridian, Clackamas County, Oregon

T. 3 S., R. 8 E., WM.

Sec. 13, Government Lots 7 & 8;

Sec. 24, a portion of the Northwest quarter of the Northeast quarter (NW1/4NE1/4) more particularly described as follows:

"Beginning at an iron pipe set at the northeast corner of the Ida Darr Subdivision in said Section 24, according to the duly recorded plat thereof, said iron pipe being the True Point of Beginning of the tract herein to be described: Thence from the above described True point of Beginning South 0°11' West along the east line of said Ida Darr Subdivision 180.1 feet to the north line of the original Mt. Hood Loop Highway through Government Camp; thence North 56°55' East along said north Line 45.89 feet to a point of curve to the right; thence northeasterly along the arc of said curve to the right with a radius of 1568.10 feet and through a central angle of 4°37'50" a distance of 126.73 feet, the long chord of said curve bears North 59°13'55" East and having a length of 126.70 feet; thence North 0°11' East, parallel with the east line of said Ida Darr Subdivision 89.79 feet to the north line of said Section 24; thence North 89°49' West along said north line 147.00 feet to the True Point of Beginning."

Containing 67.23 acres, more or less.

Subject to:

1. Requirement in accordance with Section 1206 (a) (2) (G) (ii) of the Omnibus Public Land Management Act of 2009 as amended by the Mount Hood Cooper Spur Land Exchange Clarification Act:

Prior to the exchange of the Federal and non-Federal land, the Secretary shall reserve to the United States of America acting by and through the USDA Forest Service trail easements for those trails known as follows: Skiway Trail, Wally's Tie Trail, and Maggie's Trail.

A 24-foot-wide nonexclusive trail easement at the existing trail that retains for the United States existing rights to construct, reconstruct, maintain, and permit non-motorized use by the public of existing trails subject to the right of the owner of the Federal land —

- (I) to cross the trails with roads, utilities, and infrastructure facilities;
and,
- (II) to improve or relocate the trails to accommodate development of the Federal land.

If at any time the Regional Forester determines in writing that a trail easement described herein, or any segment thereof, is no longer needed, the trail easement or segment of trail easement shall terminate. In the event of such determination, the Regional Forester shall furnish to the owner of lands traversed by the trail easement, a statement in recordable form evidencing termination.

“Skiway Trail”

An easement for trail purposes 24 feet in width, 12 feet each side of the described centerline, over and across Government Lots 7 & 8 of Section 13, T. 3 S., R. 8 E., Willamette Meridian, Clackamas County, Oregon described as follows:

Commencing from the southeast corner of Section 13, which is marked with a brass cap monument as recorded and filed with Clackamas County, Oregon; thence N88°56' W along the south line of said Section 13 a distance of 1560 feet; thence due north +/- 40 feet to the northerly edge of the Mt. Hood Highway and the **true point of beginning** of this description; thence along the centerline of an existing trail the following courses:

N42° W a distance of 150 feet to the intersection with the easterly end of “Maggie’s Trail”; thence N27° E a distance of 45 feet; thence N47° E a distance of 190 feet; thence N52° E a distance of 1195 feet to the southerly end of “Wally’s Tie Trail”; thence N51° E a distance of 15 feet more or less to a point on the north line of Government Lot 7, said point being S88°57' E 600 feet from the northeast corner of said Lot 7, Section 13, Township 3 South, Range 8 East, Willamette Meridian, being the true property line of National Forest System Lands.

Basis of Bearings for this description: Oregon State Plane Coordinate System, North Zone, NAD83. Held Bearing of the south line of Section 13 as N88°56' W.

“Wally’s Tie Trail”

An easement for trail purposes 24 feet in width, 12 feet each side of the described centerline, over a portion of Government Lot 7, Section 13, T. 3 S., R. 8 E., Willamette Meridian, Clackamas County, Oregon described as follows:

Commencing from the intersection of the existing Skiway and Maggie’s Trail, which is described as being N88°56' W along the south line of said Section 13 a distance of 1705 feet and northerly 160 feet from the southeast corner of Section 13, which is marked with a brass cap monument as recorded and filed with Clackamas County, Oregon; thence N50°E, 1425 feet more or less to the intersection of the Skiway Trail with the southerly end of Wally’s Tie Trail and the **true point of beginning** of this description; thence along the centerline of an existing trail the following courses:

N02°E a distance of 10 feet more or less, to the north line of Government Lot 7, Section 13, Township 3 South, Range 8 East, Willamette Meridian, being the true property line of National Forest System lands.

Basis of Bearings for this description: Oregon State Plane Coordinate System, North Zone, NAD83. Held Bearing of the south line of Section 13 as N88°56' W.

“Maggie’s Trail”

An easement for trail purposes 24 feet in width, 12 feet each side of the described centerline, over and across Government Lot 8 of Section 13, T. 3 S., R. 8 E., Willamette Meridian, Clackamas County, Oregon described as follows:

Commencing from the southeast corner of Section 13, which is marked with a brass cap monument as recorded and filed with Clackamas County, Oregon; thence N88°56' W along the south line of said Section 13 a distance of 1705 feet; thence due north 160 feet to a point on the

existing “Skiway Trail” and the easterly end of “Maggie’s Trail”, being the **true point of beginning** of this description; thence along the centerline of the existing trail the following courses: N 86° W a distance of 37 feet; thence N 57° W a distance of 115 feet; thence N 82° W a distance of 50 feet; thence N 62° W a distance of 70 feet; thence N 72° W a distance of 68 feet; thence S 82° W a distance of 55 feet; thence S 63° W a distance of 50 feet; thence S 78° W a distance of 60 feet; thence N 85° W a distance of 45 feet; thence N 59° W a distance of 60 feet; thence N 73° W a distance of 120 feet; thence N 28° W a distance of 85 feet; thence N 54° W a distance of 30 feet; thence N 37° W a distance of 75 feet; thence N 50° W a distance of 60 feet; thence N 73° W a distance of 25 feet; thence S 79° W a distance of 152 feet more or less to a point on the west line of Government Lot 8, said point being N1°11’ E a distance of 452 feet from the Southwest corner of said Lot 8, section 13, Township 3 South, Range 8 East, Willamette Meridian, being the true property line of National Forest System lands.

Basis of Bearings for this description: Oregon State Plane Coordinate System, North Zone, NAD83. Held Bearing of the south line of Section 13 as N88°56’ W.

Reservations:

1. Reserving to the United States a right-of-way thereon for ditches or canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).
2. Requirement in accordance with Section 1206(d) of the Omnibus Public Land Management Act of 2009 that applicable construction activities and alterations shall be conducted in accordance with—

- (i) nationally recognized building and property maintenance codes; and,
- (ii) nationally recognized codes for development in the wildland-urban interface and wildfire hazard mitigation.
- (iii) To the maximum extent practicable, these codes shall be consistent with the nationally recognized codes adopted or referenced by the State or political subdivisions of the State.

These code requirements may be enforced by the same entities otherwise enforcing codes, ordinances, and standards.

Outstanding Rights:

1. An unrecorded Right-of-Way for a Public Highway, Oregon State Department of Transportation Highway 26, affecting Government Lots 7 and 8 of Section 13, Township 3 South, Range 8 East, Willamette Meridian, granted created or established by or for the use of the public and by or under local, state, or Federal laws or decisions, or otherwise.

Appendix B: Description of Non-Federal Lands

Lands, interest in lands, and personal property that Mt. Hood Meadows will convey to the United States of America: Fee title to the following lands in County of Hood River, State of Oregon:

T. 1 S., R. 9 E., Willamette Meridian,

Section 36: **Tract 1 (TL104)**: A tract of land lying in Section 36, Township 1 South, Range 9 East, Willamette Meridian in the County of Hood River and State of Oregon:

The East half of the East half of the Southeast quarter ($E\frac{1}{2}E\frac{1}{2}SE\frac{1}{4}$), and the East half of the West half of the East half of the Southeast quarter ($E\frac{1}{2}W\frac{1}{2}E\frac{1}{2}SE\frac{1}{4}$) of Section 36:

ALSO, that portion of the East half of the Northeast quarter ($E\frac{1}{2}NE\frac{1}{4}$) described as follows:

Beginning at the East quarter corner of said Section 36; thence West along the South line of said Northeast quarter to the Southwest corner of the East half of the East half of said Northeast quarter; thence North along the West line of said East half of the East half a distance of 1,900 feet, more or less to the intersection with the Southerly line of an existing forest practices road; thence along said Southerly line in a Northeasterly direction 750 feet more or less to the intersection with the East line of said Section 36; thence South along the East line 2,200 feet more or less to the point of beginning. **EXCEPTING THEREFROM**, any portion of the above described land lying within public rights-of-way.

T. 1 S., R. 10 E., Willamette Meridian,

Section 30: **Tract 8 (TL 1500)**: The Southeast quarter of the Southeast quarter of Section 30, Township 1 South, Range 10 East of the Willamette Meridian, in the County of Hood River and State of Oregon.;

Section 31: **Tract 2 (TL100) & Tract 3 (TL501)**: A tract of land lying in Section 31, Township 1 South, Range 10 East, Willamette Meridian in the County of Hood River and State of Oregon, being more particularly described as follows:

All of Section 31, less and except the following described parcels:

- A) The Plat of Mountain Shadows Subdivision.
- B) That portion of the Northeast quarter lying West of the Westerly line of Cooper Spur Road, also known as Mt. Hood Loop Highway.
- C) Beginning at the south quarter corner of said Section 31; thence East along the south line of said Section 31 a distance of 363 feet; thence North parallel to the North-South centerline of said Section 31 a distance of 363 feet; thence West parallel with the south line of said Section 31 a distance of 363 feet to the intersection with the North-South centerline of said Section 31; thence South along said North-South centerline a distance of 363 feet to the point of beginning.
- D) Beginning at a point on the North-South centerline of said Section 31, said point being 720 feet North of the south quarter corner of said Section 31; thence West to the centerline of Cooper Spur Road, also known as Mt. Hood Loop Highway; thence in a northeasterly direction along said centerline to the north line of the South three-quarters of the Southeast quarter of the Southwest quarter of said Section 31; thence East along said north line to the North-South centerline of said Section 31; thence South along said centerline to the point of beginning.
- E) Beginning at the intersection of the north line of the South three-quarters of the Southeast quarter of the Southwest quarter of said Section 31 with the centerline of the Cooper Spur Road, also known as Mt. Hood Loop Highway; thence Southerly along said centerline a distance of 300 feet; thence West 158 feet; thence North 270 feet more or less to the north line of said South three-

quarters of the Southeast quarter of the Southwest quarter; thence East along said north line a distance of 295 feet more or less to the point of beginning.

- F) Government Lots 3 and 4 of said Section 31.
- G) The North half of the Northeast quarter of the Southwest quarter of said Section 31.
- H) That portion of the Southeast quarter of the Northwest quarter of said Section 31 lying Southerly of the following described line. Commencing at the Northwest corner of the Northeast quarter of the Northwest quarter of said Section 31; thence South 00° 11' 16" West along the North-South centerline of said Northwest quarter a distance of 1,456.28 feet to the true Point of Beginning of this description, said point being at the intersection of said North-South centerline of the Northwest quarter and the northerly line of U.S. Forest Service Road #3511; thence along said northerly road line South 29°32'43" East 344.30 feet; thence South 57°51'40" East 419.14 feet; thence South 30°13'43" East 190.39 feet; thence leaving said northerly road line South 89°30'23" East 723.31 feet more or less to the intersection with the east line of said Southeast quarter of the Northwest quarter and there terminating.

ALSO EXCEPTING therefrom, any portion of the above described land lying within public rights-of-way.

TOGETHER WITH all reversionary right, title and interest in all that portion of the Grantor's interest in County Roads as was vacated due to road relocations, per General Laws of Oregon 1917, Oregon Compiled Laws Annotated 1940, and Oregon Laws 1981.

TOGETHER WITH all water rights and rights in springs appertaining thereto.

Containing 605.16 acres, more or less.

Subject to:

Notice of Pendency of an Action, Mike McCarthy vs. Board of Commissioners of Hood River County, an Oregon Municipal Corporation, and Mt. Hood Meadows Oregon, LTD, an Oregon limited partnership, Case No.: Not Shown, in the State Circuit Court for Hood River County, Oregon.

Recorded: June 1, 2020 Instrument No.: 202001994.

Reservations: None

Outstanding Rights:

1. An easement subject to the terms and provisions thereof in favor of Pacific Power & Light recorded September 12, 1947 in Book 35, Page 455. Subsequent assignment of lines to Hood River Electric Cooperative, Inc., an Oregon cooperative corporation by Deed and Bill of Sale dated March 30, 1967, recorded March 30, 1967, as Microfilm No. 670393, Records of Hood River County, Oregon.
2. Deed Declaration to acknowledge the compliance with Hood River County Zoning Ordinance for legal parcel sizes, recorded March 11, 2002 in Instrument No. 20021117, Corrected on January 28, 2016 Instrument No. 201600257. Correction Deed Declaration to correct an erroneous legal description rerecorded on January 28, 2016, as Microfilm No. 201600257.

Exhibit 1: Cooper Spur Ski Area - Personal Property

1. Riblet Homestead 2 Place Lift
2. 3 Surface Lifts (Rope Tows)
3. Pole Mounted Outdoor Lights, including concrete pads
4. Kitchen Equipment at Ski Lodge
5. DSC Security System², Storage Cabinets, Ski Racks, Bookshelves, Files, Tools
6. Lodge Decorations (13 Photos and Miscellaneous Art)
7. Office Furniture (3 desks, 2 chairs, 4 file cabinets, wire racks, 2 storage cabinets)
8. Office Equipment (Desk lamp, 2 Calculators, 4 Cash registers (SharpXE-A106), 3 Clover CC Machine, DellV305 Copy Machine, Miscellaneous Office Supplies)
9. Computer Equipment (1 Laptop, 1 ACER Desktop, EPSON Printer, Pass Printer)
10. 3 Freezers (2 Kenmore, 1 Montgomery Ward)
11. 2 – 6 ft. Glass Display Cases
12. Bombardier Snowcat 2001 Model Plu/MP, Approximately 7000 Hrs VIN #908701111
13. 20 Snow Tubs and 10 Extra Covers
14. 49 GIRO Ski Helmets (Rentals)
15. 225 Rosignol Ski Boots (Rentals)
16. 197 Pairs Solomon and Rosignol Skis (Rentals)
17. 91 Rosignol Snow Board Boots (Rentals)
18. 72 Rosignol Snow Boards (Rentals)
19. 49 Tables Various Size and Configurations
20. 81 Chairs and 19 Benches Various Sizes and configurations
21. Miscellaneous Cleaning Supplies and Misc. Tools and Repair Items

Exhibit 2: Cooper Spur Ski Area - Improvements

Main Building (Day/Ski Lodge)	± 3,123 sq.ft.
Open porches/decks at Main Building	± 2,462 sq.ft.
Canopy on deck of Main Building	± 1,000 sq.ft.
Building 2 “A-Frame Building” Multipurpose / Locker Room	± 1,046 sq.ft.
Building 3 Multipurpose / Employee Lounge	± 249 sq.ft.
Building 3 Porch	± 144 sq.ft.
Building 4 Ski Patrol Building	± 187 sq.ft.
Building 4 Porch	± 100 sq.ft.
Outdoor Lighting	
Well (Well Pump House)	
Septic System and Drain Field	
Electrical Service	

Appendix C: Maps of Draft Decision

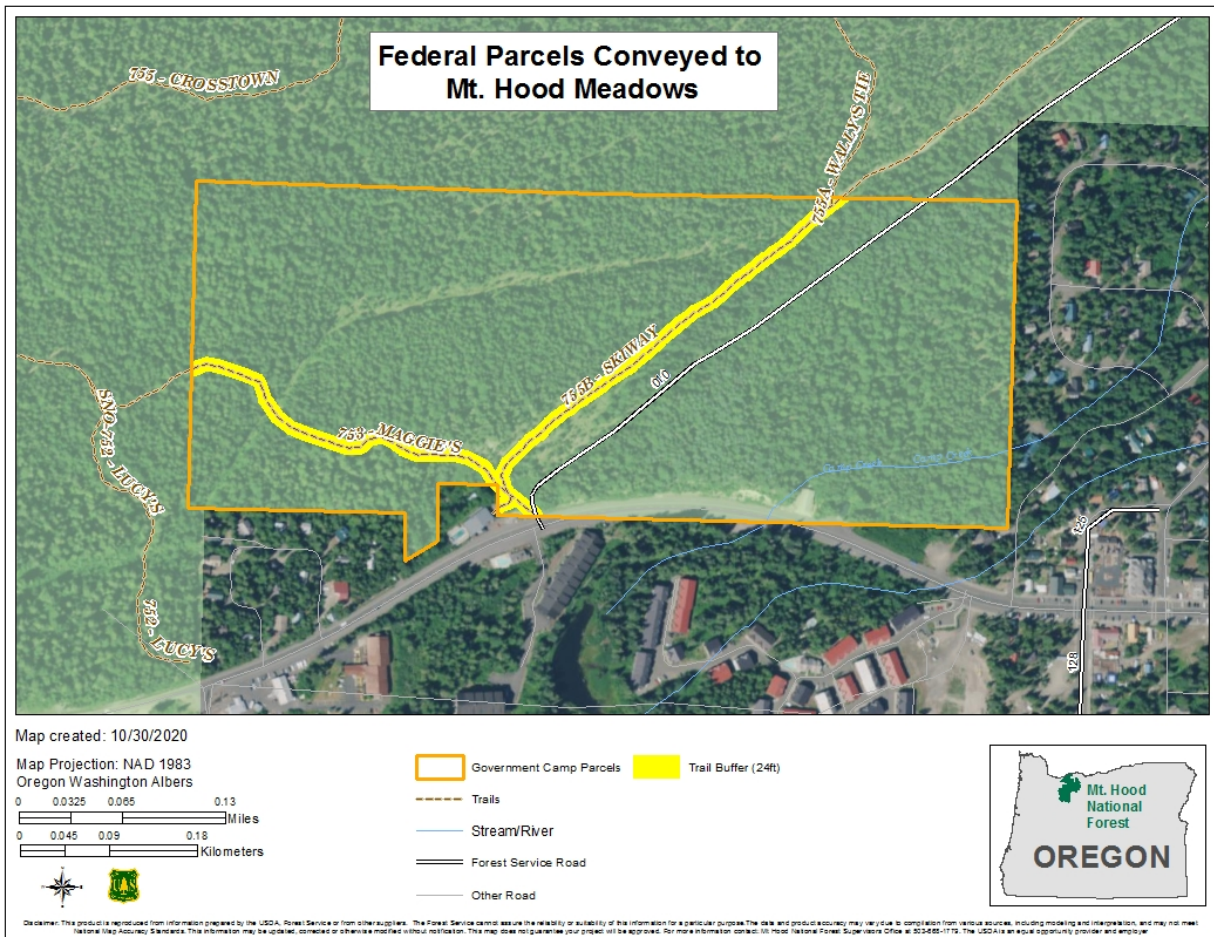


Figure 1. Federal parcels (Government Camp Parcels P-1 and P-2) conveyed to Mt. Hood Meadows

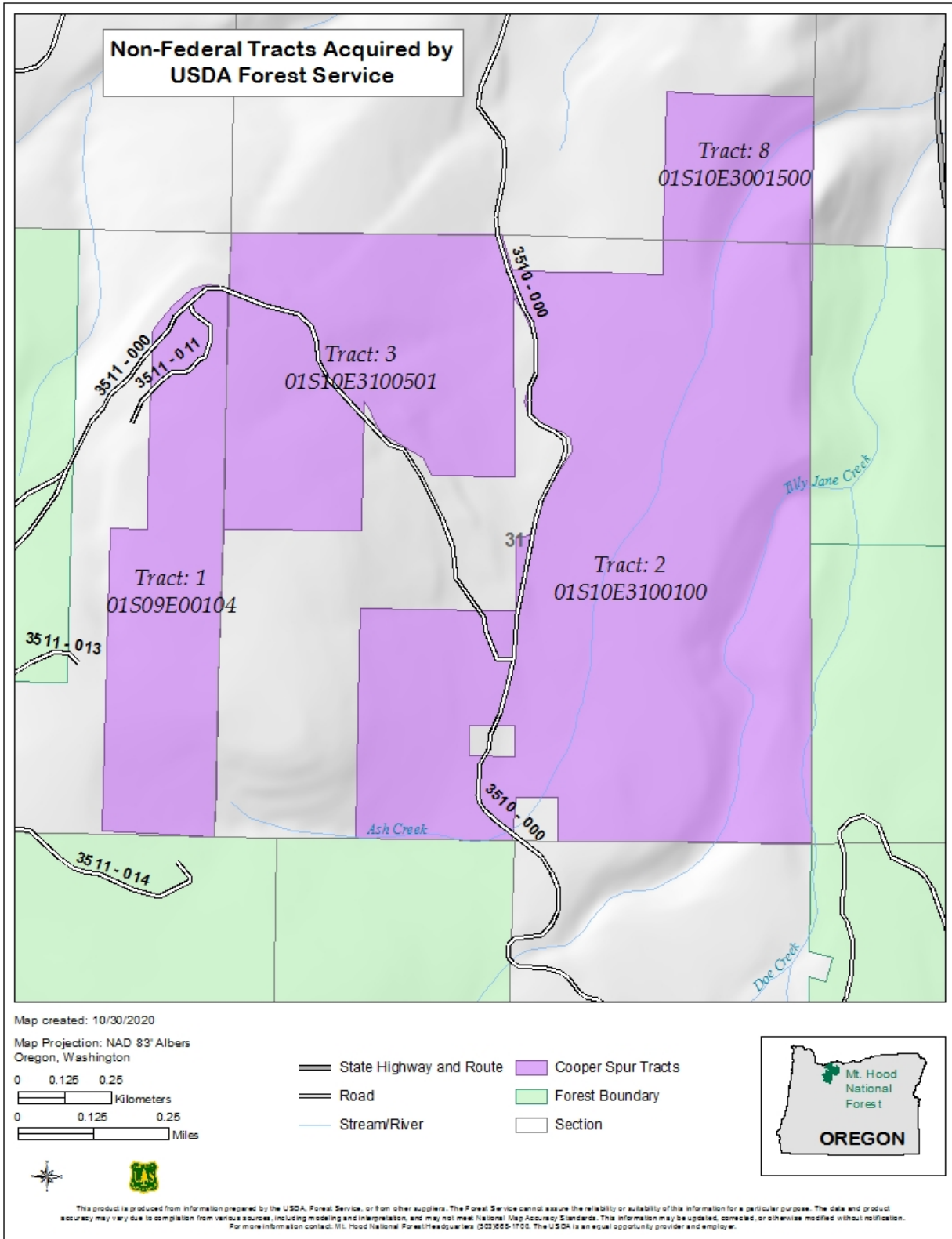


Figure 2. Non-Federal parcels (Cooper Spur Tracks 1, 2, 3, and 8) conveyed to Forest Service

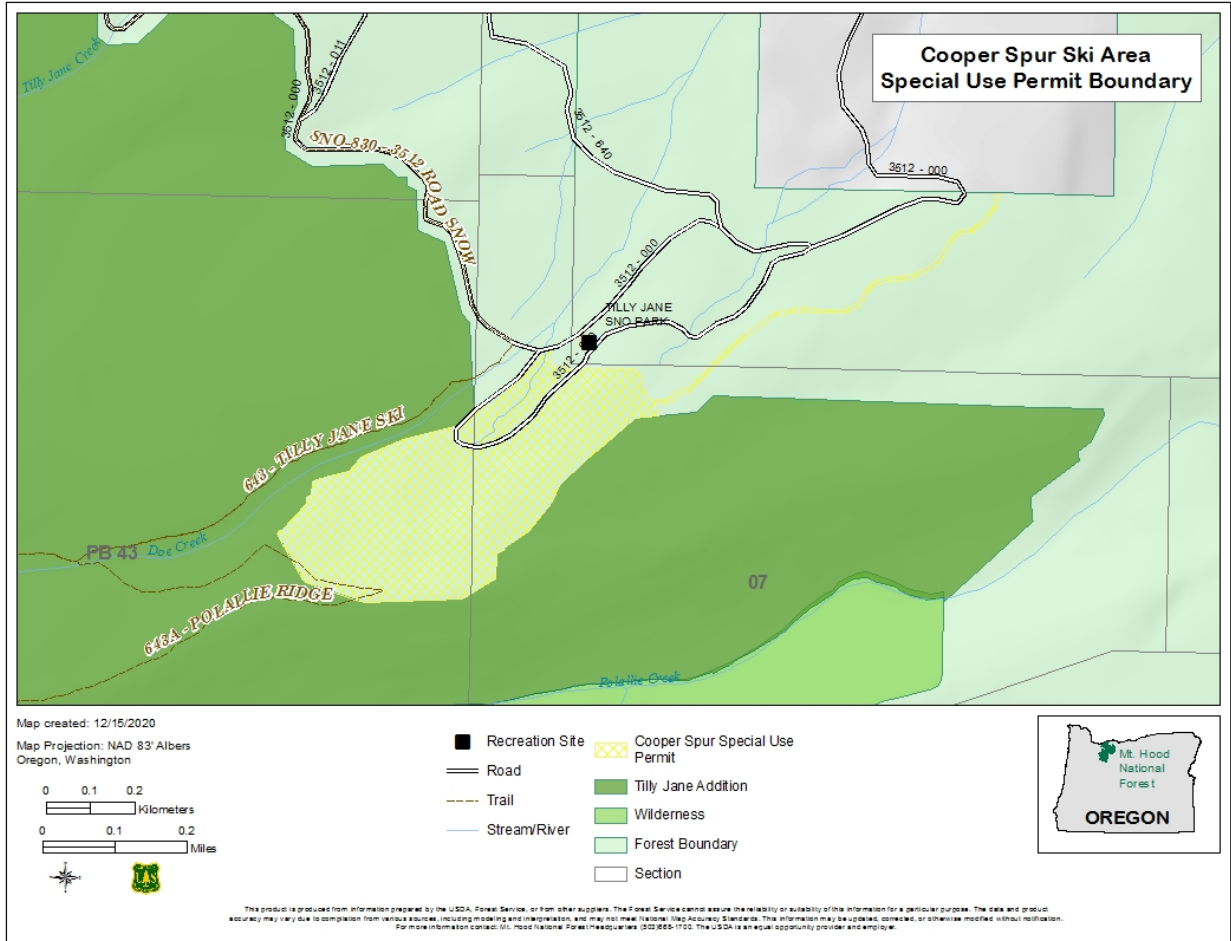


Figure 3. Cooper Spur Ski Area special use permit boundary

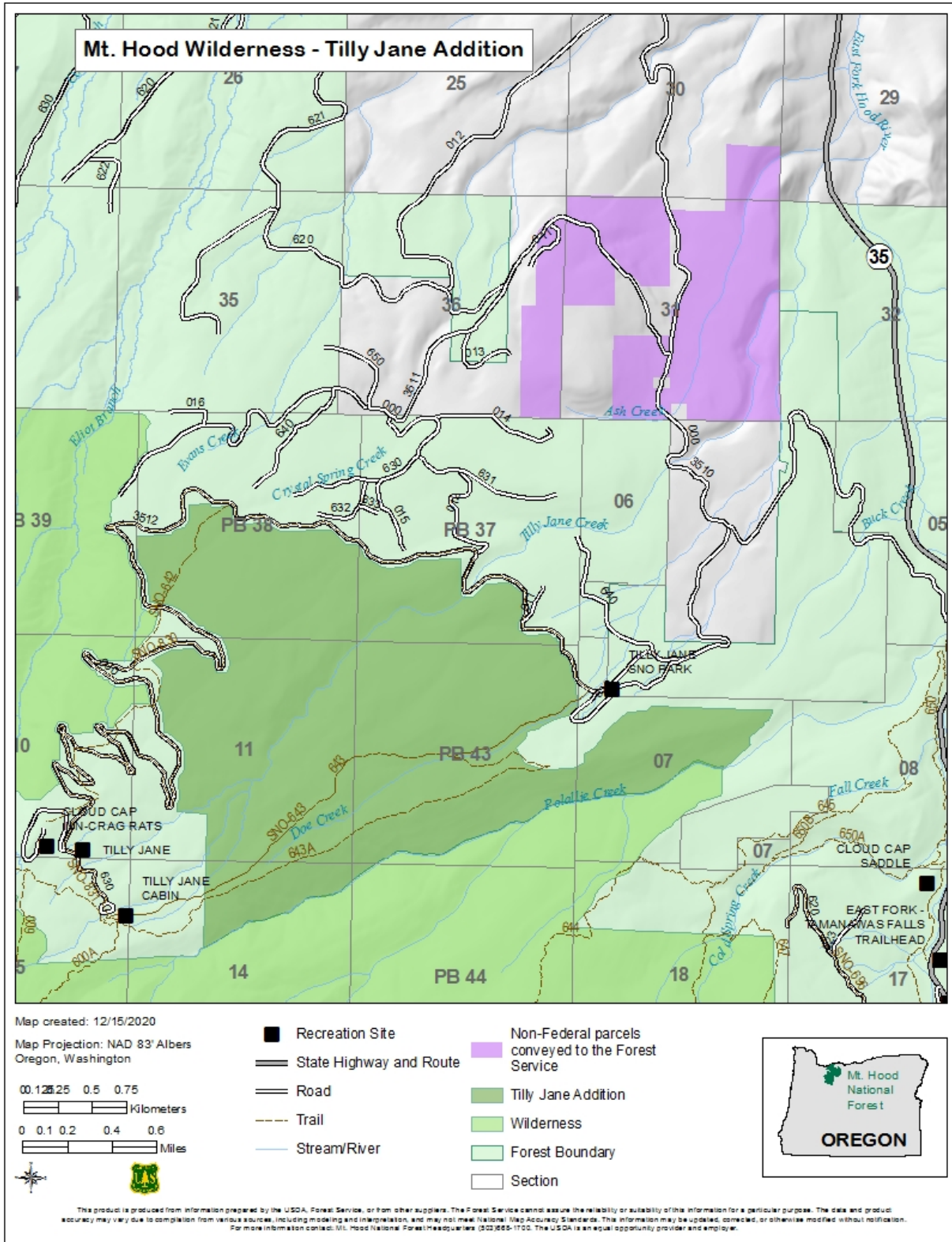


Figure 4. Mt. Hood Wilderness-Tilly Jane Addition

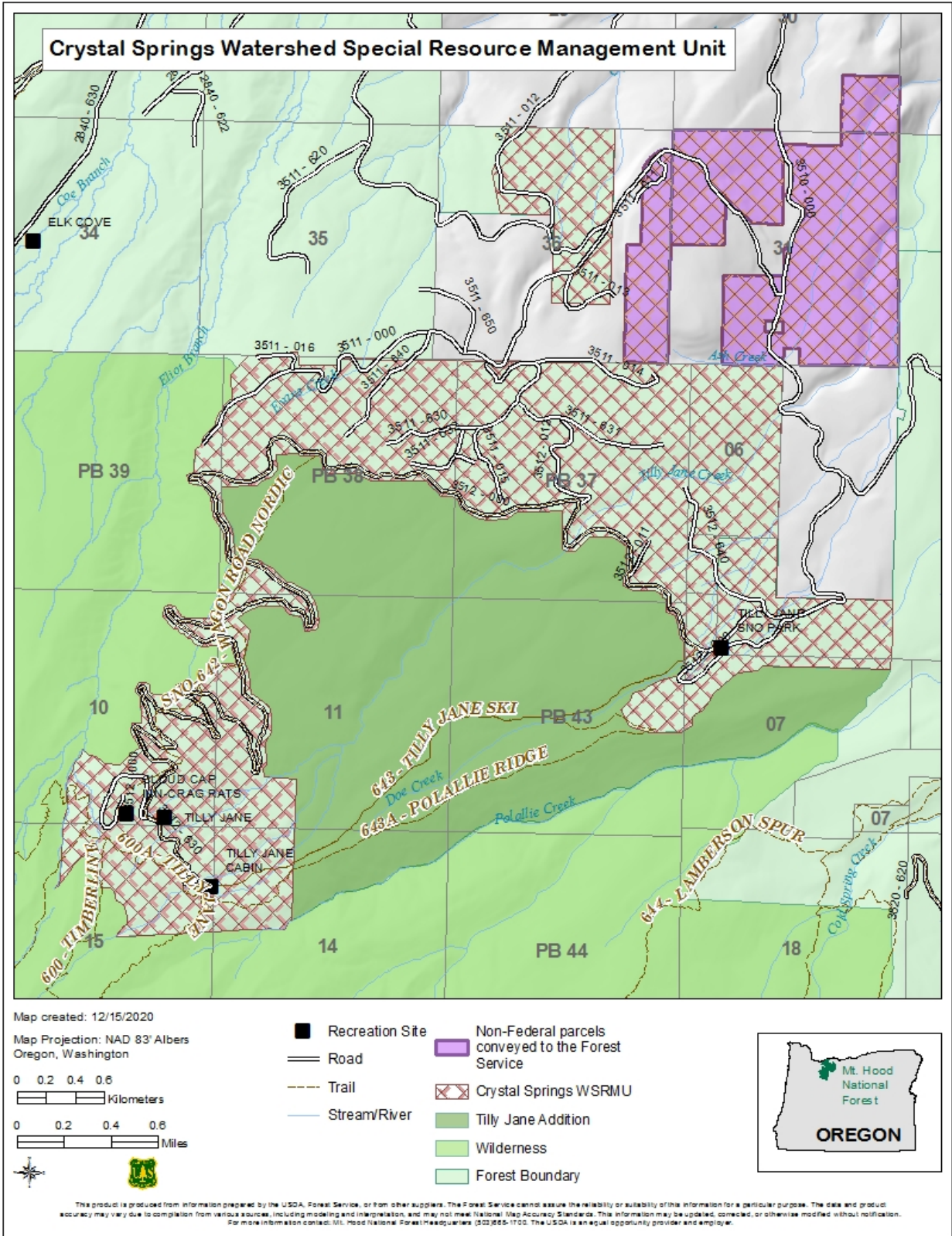


Figure 5. Crystal Springs Watershed Special Resource Management Unit

Appendix D: A14 Standards and Guidelines

The following language will be added to the Forest Plan for the management direction for A14-Crystal Springs Watershed Special Resources Management Unit.

Goal

As established per the Omnibus Public Land Management Act (Public Law 111-11, March 30, 2009), the purposes of the Crystal Springs Watershed Special Resources Management Unit (herein referred to as the Management Unit) are to (A) ensure the protection of the quality and quantity of the Crystal Springs watershed as a clean drinking water source for the residents of Hood River County, Oregon; and (B) to allow visitors to enjoy the special scenic, natural, cultural, and wildlife values of the Crystal Springs watershed (Public Law 111-11, Section 1205(a)(2)).

Location

The designation of the Management Unit applies specifically to the portion of the Crystal Springs watershed in Hood River County, Oregon, as depicted on a map dated June 2006 (see Public Law 111-11, Section 1205(a)(1)(A)). A reference map of the Management Unit is provided above. The Management Unit does not include any National Forest System land that is designated as wilderness by Section 1202 of the 2009 Omnibus Public Land Management Act (Public Law 111-11, Section 1205(a)(1)(B)). Further, the withdrawal of location, entry, and patent under the mining laws does not apply to the parcel of land legally described as “HES 151” on the map (Public Law 111-11, Section 1205(a)(1)(C)(ii)). Note: HES is an acronym for Homestead Entry Survey. A Homestead Entry is defined by the United States Department of Interior Bureau of Land Management as: An entry under the United States land laws for the purpose of acquiring title to a portion of the public domain under the homestead laws, consisting of an affidavit of the claimant’s right to enter, a formal application for the land, and payment of the money required.

There are no other management areas representing Management Requirements that overlap the A14 Management Area boundaries. All forestwide standards and guidelines apply; however, specific A14 prescriptions would take precedence over more general Forest Plan prescriptions.

Desired Future Condition

Major Characteristics

- ◆ Provides consistently excellent water quality (clarity, temperature, and chemistry).
- ◆ No more than 25 percent of the Management Unit will be in a hydrologically disturbed condition at any time.
- ◆ Excellent fish spawning and rearing habitat; high-quality waterfowl breeding, nesting and resting habitat; wildlife cover; and diverse plant communities.
- ◆ A variety of tree sizes exist, representing a healthy, resilient landscape.
- ◆ Each area is uniquely formed by natural forces and historic human achievement.
- ◆ Each area is unique by itself and presents its own special set of values and experiences.
- ◆ Maintain and improve opportunities for visitors to experience the natural landscape and the historic human environment. These opportunities are also encouraged and managed appropriately.

- ◆ Opportunities for environmental and cultural/historic education and interpretation are emphasized.
- ◆ Area has special characteristics, such as: massive lava flows; glacial cirque basins; high-elevation meadows and forests; hot springs; outstanding views of majestic mountains; old-growth forests; unique plant communities; unique combinations of geology, ecology, and hydrology; interpretive trails and visitor points and/or historic buildings and travel routes.
- ◆ No new National Forest System roads are constructed.
- ◆ The transportation system is managed to preserve the integrity of the natural and historic environments.

Sensory Perceptions

- ◆ Expansive vistas.
- ◆ General feeling of “closeness” to nature.
- ◆ Solitude and tranquility.
- ◆ Sense of curiosity, discovery and inspirational.
- ◆ Physically challenging.
- ◆ Sense of kinship and sharing with individuals who hold similar values.
- ◆ Sights, sounds, and smells associated with humans are evident but subordinate to the experience.
- ◆ Presence or evidence of a variety of wildlife, plants, and animals.

Standards and Guidelines

A. Dispersed Recreation and Developed Recreation

- | | |
|---|--------------------|
| 10. New developed recreation sites, or expansions to existing sites, may occur provided watershed (i.e., water, soil, and fish) values are protected. | A14-001 |
| 11. The development of new or expansion of existing recreation sites, facilities and trails (hiking and cross-country skiing) may occur, but should avoid or protect sensitive watershed lands. | A14-002 |
| 12. Developments or expansions should avoid special aquatic and terrestrial habitats (e.g., side channels, ponds, and wetlands). | A14-003 |
| 13. Where existing developments (e.g., recreation sites and trails) are not consistent with riparian and/or watershed values, modification or rehabilitation of the site or facility may occur. | A14-004 |
| 14. Dispersed recreation and natural resource management interpretation should be encouraged, but should be discouraged within 100 feet of waterways. Whenever damage occurs to riparian resources, the damaged site shall be restored. | A14-005
A14-006 |

B. Visual Resource Management

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|---|---------|
| 1. Management activities within the cultural landscape of the Cloud Cap – Tilly Jane National Historic District ⁵ shall meet a visual quality objective (VQO) of retention in the foreground and partial retention in the middleground and background distance zones, as seen from open roads, high recreational use areas, and waterbodies. | A14-007 |
| a. Foreground retention for the Cloud Cap Road within the National Historic District is applied to lands visible for distances up to 0.5 mile from the road and public areas, and means the following: | A14-008 |
| i. Vegetation is composed primarily of multi-age, multi-species stands with diverse understory of natural plant associations (where biologically feasible). | A14-009 |
| ii. Numerous large-diameter, old trees are a major component of the stands (where biologically feasible). | A14-010 |
| iii. Small, natural-appearing openings provide diversity and a sense of depth. | A14-011 |
| iv. The ground is generally free of unnatural forms and patterns of debris or litter. | A14-012 |
| v. Seasonal changes in vegetation color and texture are emphasized. | A14-013 |
| b. Middleground and background partial retention is applied to lands visible for distances from 0.5 to 5 miles from the Cloud Cap Road and public areas within the National Historic District, and means the following: | A14-014 |
| i. Natural-appearing forest landscape, with little evidence of human alteration. | A14-015 |
| ii. Dominant visual impression is mostly continuous tree canopies, with diversity in occasional natural-appearing openings. | A14-016 |
| iii. Mosaic of species and age classes add texture and color contrast in natural patterns. | A14-017 |
| iv. Management activities repeat form, line, color, and texture common to the characteristic landscape. | A14-018 |
| 2. Management activities outside of the cultural landscape of the Cloud Cap – Tilly Jane National Historic District shall achieve a VQO of partial retention from open roads. | A14-019 |
| 3. VQOs accepting less visual quality disturbance shall be applied when A14 Management Areas are located within “designated viewsheds.” | A14-020 |
| 4. See Forestwide Visual Resource Management Standards and Guidelines for VQOs prescribed for trails. | |

⁵ The area within the boundaries of the Cloud Cap-Tilly Jane Recreation Area Historic District (as described in the March 22, 1981 National Register nomination form) shall meet the recreation opportunity spectrum (ROS) classification of Roaded Natural (FSM 2311.1).

C. Cultural Resources Management

1. The area within the cultural landscape of the Cloud Cap – Tilly Jane National Historic District shall meet the Recreation Opportunity Spectrum (ROS) classification of Roded Natural (FSM 2311.1). A14-021
2. Authorized excavation of cultural resource sites shall be conducted in a manner that minimized impacts on watershed values. Ground and vegetation disturbance associated with site excavation should be rehabilitated immediately following completion of activities. A14-022
A14-023
3. Maintenance and preservation of historic structures and features may be conducted. A14-024
4. The use of preservation and waterproofing materials and chemicals such as but not limited to fungicides, pesticides, stains, paints and sealers may occur, provided their use follows the appropriate precautions for the handling, storage, and application of the materials. A14-025
5. Vegetation management for the restoration and maintenance of the historic vistas at Inspiration Point, at milepost 8.4, and at the Amphitheater shall be permitted. A14-026
6. The stands of whitebark pine within the cultural landscape of the Cloud Cap – Tilly Jane National Historic District should be retained as much as possible (e.g., pruned, thinned, and fertilized to maintain vigorous growth and prevent disease). A14-027
7. See Forestwide Cultural Resources Management Standards and Guidelines.

D. Wildlife and Fisheries

5. Wildlife and fisheries rehabilitation and enhancement projects may be permitted, provided watershed values are protected. Projects shall emphasize improvement or rehabilitation of key and/or sensitive wildlife and fisheries habitat. A14-028
A14-029

E. Range Management

6. Commercial livestock grazing is prohibited. A14-030

F. Timber Management

7. Regulated timber harvest shall not occur, other than activities relating to the harvest of merchantable products that are byproducts of activities conducted to further the designated purposes of the Management Unit (see Goals). Watershed impact areas should not exceed “thresholds of concern⁶” (TOC) of 25 percent. A14-031
A14-032
8. Biological and manual methods of vegetation management should be favored in domestic use watersheds. A14-033

⁶ The “threshold of concern” represents the percentage of a watershed that is hydrologically disturbed by management activities at any one time (see Forest Plan p. Four-53).

9. Fuel reduction and forest health management treatments may be conducted to maintain and restore fire-resilient forest structures containing late successional forest structure characterized by large trees and multi-storied canopies, as ecologically appropriate in any of the following areas: within 400 feet of structures on NFS land or on adjacent private land; within 400 feet of the Cooper Spur Road, the Cloud Cap Road, and the Cooper Spur Ski Area Loop Road; and on any other NFS land with priority given to activities that restore previously harvested stands, including the removal of logging slash, smaller diameter material, and ladder fuels. A14-034
10. Firewood cutting should be allowed only in specifically designated areas. A14-035
11. Activities involving fertilization of vegetation, in municipal or domestic watersheds shall be coordinated with appropriate municipalities or individuals. A14-036
12. Timber salvage activities may occur, if needed to ensure the protection of the quality and quantity of the Crystal Springs watershed as a clean drinking water source for the residents of Hood River County, Oregon or to allow visitors to enjoy the special scenic, natural, cultural, and wildlife values of the Crystal Springs watershed. A14-037
13. Projects undertaken for the purpose of harvesting commercial timber (other than activities relating to the harvest of merchantable products that are byproducts of activities conducted to further the purposes of the Management Unit (see Goals)) shall be prohibited. A14-038
- G. Soil, Water and Air Quality
14. See Forestwide Soil Productivity, Water, Riparian Area, and Air Quality Standards and Guidelines.
- H. Minerals Management
15. New minerals exploration and development shall be prohibited. A14-039
16. Subject to valid rights in existence on the date of the Omnibus Public Land Management Act (Public Law 111-11, March 30, 2009), the Federal land designated as the Management Unit is withdrawn from all forms of entry, appropriation, or disposal under public land laws; location, entry, and patent under the mining laws; disposition under all laws pertaining to mineral and geothermal leasing or mineral materials. Except for the parcel of land depicted as HES 151. A14-040
17. See also Forestwide Minerals Management Standards and Guidelines.
- I. Geology
18. See Forestwide Geology Standards and Guidelines.
- J. Lands Program
19. The Secretary may acquire from willing landowners any land located within the area identified on the map included in Section 1205(a)(1)(A) of the Omnibus Act as the “Crystal Springs Zone of Contribution.” A14-042
20. See also Forestwide Lands Program Standards and Guidelines.

K. Special Uses

1. See Forestwide Special Uses Standards and Guidelines.

L. Transportation Systems/Facilities; Travel and Access Management

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| 21. New road construction or renovation of existing non-System roads shall only be permitted to provide for public health and safety. | A14-043 |
| 22. The Secretary may provide for the closure or gating to the general public of any Forest Service Road within the Management Unit, except for the Cloud Cap Road, which shall be administered in accordance with applicable law. | A14-044 |
| 23. The placement of new fuel storage tanks is prohibited. | A14-045 |
| 24. Road crossings for perennial streams shall be designed to meet fish passage Standards and Guidelines found in the Forestwide Fisheries Standards and Guidelines. This will allow road crossing to meet modern aquatic organism passage requirements. | A14-046 |
| 25. Drainage systems for roads or parking areas shall incorporate practical features to minimize or eliminate sediment and/or other pollutants from discharging directly into waterbodies (i.e., streams, lakes, ponds, reservoirs, and wetlands). | A14-047 |
| 26. Recreational off-road vehicle use (other than over-snow) is prohibited. | A14-048 |

M. Fire Prevention and Suppression

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| 27. Fire retardants can be applied to the extent necessary to further the purposes of the Management Unit (see Goal). | A14-049 |
| 28. See Forestwide Forest Protection Standards and Guidelines | |

N. Wood Residue Management

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| 29. See Forestwide Soil Productivity, Wildlife and Forest Diversity Standards and Guidelines. | |
| 30. Prescribed burning may be permitted to enhance watershed resistance to catastrophic wildfire. | A14-050 |

O. Integrated Pest Management

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|--|--------------------|
| 31. Biological control measures should be favored. See Forestwide Timber Management Standards and Guidelines regarding integrated pest management. | A14-051 |
| 32. Except to the extent necessary to further the purposes of the Management Unit (see Goal), the application of any toxic chemicals (other than fire retardants), including pesticides, rodenticides, or herbicides shall be prohibited. However, in order to protect the integrity of the natural system of the Management Unit (see Goal), the spread of State-listed noxious weeds and other invasive species of management concern may be prevented through the use of approved herbicides. If the application of herbicides does occur, it shall be coordinated with associated municipalities, groups or individuals. | A14-052
A14-053 |