

MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN
WALLOWA COUNTY, OREGON
(Hereinafter called "the County")
and the U.S.D.A. FOREST SERVICE, WALLOWA-WHITMAN NATIONAL
FOREST
(Hereinafter called "the Forest")

SECTION I. STATEMENT OF PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to establish government-to-government communications and productive planning relationships between the County and the Forest. This MOU addresses how and when each agency participates in Forest and County planning processes. Successful implementation of this MOU will promote positive intergovernmental relationships.

SECTION 11. BACKGROUND

- A- WHEREAS, it is recognized that the Forest Service manages the National Forest in accordance with the Organic Administration Act of 1897, The Multiple Use Sustained Yield Act, the Forest and Rangeland Renewable Resources Planning Act as amended by the National Forest Management Act, and other Federal laws.
- B. WHEREAS, these Acts require among other things management of National Forest System lands to provide renewable resources (outdoor recreation, range, timber, watershed, fish and wildlife) on a sustained basis in the combination that will best meet the needs of the American people in perpetuity, and;
- C. WHEREAS, the County and Forest policies seek to fully consider impacts of proposed actions on the physical, biological, social and economic aspects of the human environment, including impacts at the local level, to involve each other in planning and monitoring, to give early notice of upcoming proposals to interested and affected persons, and to give timely notice to each other regarding environmental planning documents, and;
- D. WHEREAS, the Forest and the County desire to enter into this MOU and have the authority, through the Forest Supervisor and the County Court to do so, and;
- E. WHEREAS, it is mutually recognized that:
1. This MOU shall not be construed to affect the jurisdiction of Federal, State, County or other local governmental agencies which exists as a matter of law, and;
 2. The Forest encompasses three administrative units in County known as Ranger Districts, and;
 3. Those Districts are staffed by Forest Service employees who may be County residents who are dependent on the economic, social and cultural condition of the County, and;

4. The County and Forest desire that their planning and enforcement activities appropriately consider the impacts of various decisions on the economic and social stability and custom and culture of the County and its residents during planning, and;

F- WHEREAS, there are County and Forest planning activities which require different levels of documentation prior to decision making and implementation, and;

G. WHEREAS, for the Forest, these planning activities are mandated or recommended by various Federal laws, regulations and guidelines including, but not limited to the National Environmental Policy Act, the National Forest Management Act and Forest Service policies, procedures, and regulations, and;

H. WHEREAS, it is understood that the Forest has responsibility and authority for decisions on matters within its jurisdiction, and;

I. WHEREAS, for the County these planning activities are mandated by various Oregon State laws, rules, and guidelines and by the Wallowa County Comprehensive Land Use Plan and the Wallowa county Land Development Ordinance; and

J. WHEREAS, it is Understood that the County has responsibility and authority for decisions on matters within its jurisdictions; and

SECTION 111. STATEMENT OF JOINT OBJECTIVES

A. WHEREAS, both agencies desire to develop processes and procedures to ensure that the County and the Forest are able to efficiently and effectively meet their responsibilities as public entities, and;

B. WHEREAS, both agencies desire to openly communicate and provide a conduit for free exchange of information on common issues and problems, and;

C. WHEREAS, both agencies desire to provide a framework to fully consider the social, economic, environmental, and cultural impacts of public land and resource management decisions as part of the overall planning and decision making processes, and;

D. WHEREAS, both agencies desire to work cooperatively on monitoring Forest Plan implementation, and;

E. WHEREAS, both agencies desire periodic review of this MOU for evaluating its effectiveness, and;

F. WHEREAS, both agencies desire a conflict resolution process that provides relief at the lowest administrative level without resort to judicial review;

NOW, THEREFORE BE IT UNDERSTOOD THAT the parties shall work in good faith to implement the following:

SECTION IV PROJECT LEVEL PLANNING UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT AND OTHER FEDERAL LAWS

A. Processes for Planning

1. The processes set forth in this MOU are intended to set forth the most complex, interactive analysis that the agencies may be required to undertake in Complying with their respective responsibilities.

Many actions proposed by the Forest, either initiated by the Forest or the County, may be processed and final disposition made using fewer procedural steps than this process provides.

2. The Forest ensures compliance with all matters pertaining to the National Environmental Policy Act (NEPA) and consistency with the Forest Plan pursuant to the National Forest Management Act (NFMA) and other federal laws.

B. Notification of Proposed Actions

1. The Forest will provide the quarterly Environmental Analysis Schedule of Proposed Actions to the County. This schedule provides the status of all on-going and proposed environmental analyses on the Forest
2. The County will monitor the schedule and be prepared to act promptly upon receipt of Scoping letters or other documents from the Forest requesting actions or comments from the County.
3. The Forest shall notify the County, at the earliest possible time, of environmental analyses affecting the County. Notification shall occur through scoping documents related to individual analyses. For analyses documented in Environmental Assessments and Environmental Impact Statements, the Forest shall provide the scoping document to the County.

C. Scoping Documents

1. The scoping document will normally include a description of the proposed action, a statement of purpose and need, and decisions to be made. When appropriate, the scoping document may include preliminary issues, possible alternatives and the status of the County as a cooperating agency or joint leader in the analysis. For analyses documented as Categorical Exclusions, the Forest shall scope with the County in a manner commensurate with the requirements of individual analyses.
2. The County will evaluate the scoping document and refer it to the appropriate advisory committee(s) for prompt consideration and action. The County may, within the response time specified in the scoping document, either provide written comments on the proposal or inform the Forest in writing of one of the following:
 - a. The County has no outstanding concerns with a special interest in the proposal and does not intend to comment further. The County may request to receive the Decision Memo (DM), Environmental Assessment (EA), or Environmental Impact Statement (EIS) even though they have expressed that they have no outstanding concerns. This request must be made in writing. It is understood that the County's non-response to the scoping document as well as lack of any other expression constitutes tacit notification that it has no concern over the project. These actions or lack of action may cause the County to lose standing to appeal the decision under the Forest Service appeal regulation.
 - b. If the County desires additional information. It may request the Forest to meet with the advisory committee(s) and other county staff. This meeting shall be a public meeting conducted in accordance with State and local law. The County may present issues, alternatives, and/or mitigation measures to the Forest at this time,
 - c. The County is interested in participating in the project. The response will include suggested issues, alternatives, and/or mitigation measures and its desired role and participation activities.

3. In response to the scoping document, the County will make a faith effort to raise any and all issues it deems important in as specific a manner as possible. The County shall describe applicable State and local laws and local plans and policies that may apply to the proposed or have an effect on the decision.

4. The Forest or the County may request a meeting to clarify individual project goals and objectives and/or pertinent issues. The County will, to the greatest extent possible, organize and conduct these meetings to keep the subject focused on the specific issues and project. The County will cooperate with the Forest on scheduling these meetings and providing adequate notice in compliance with State law. Both agencies may request persons with specific expertise to attend such meetings to present and discuss information.

D. Notification and Comment Procedures

1. At this point in the process, procedures identified in the Forest Service appeals regulations for comment and decision notification will apply.
2. The Forest shall provide a copy at any EA, ES, and notices of availability to the County for any projects for which it has indicated an interest.
3. The Forest shall mail written notice of decisions to the County on all actions for which it has indicated an interest.

SECTION V. JOINT AND COOPERATIVE PLANNING

A. Joint Planning Status

1. Joint planning may be used for:
 - a. Activities for which the County has subject matter jurisdiction (40 CFR 1506.2(b)), or;
 - b. Activities for which the County has environmental planning requirements comparable to NEPA (40 CFR 1506-2(c)).
2. The Forest and the County shall agree when joint planning is appropriate and how such planning shall be conducted.
3. If the requirement for joint planning is in dispute, the County and the Forest will use the process outlined in Section X. CONFLICT RESOLUTION.

B. Cooperating Agency Status

1. The Forest has the authority to grant cooperating agency status (40 CFR 1508.5) and conduct activities with cooperating agencies (40 CFR 1501.6). The County has the same authority for initiating cooperative planning with the Forest for County decisions under appropriate provisions of its local plans and/or ordinances.
2. Cooperating agency status is appropriate when it would serve to assist both agencies in complying with their respective authorities and planning needs (40 CFR 1508.5 and 40 CFR 1501.6).
3. The Forest may ask an agency with expertise regarding specific issues pertinent to the analysis to be a cooperating agency at any time when it will facilitate the analysis (40 CFR 1508.5 and 40 CFR 1501.6)

G. Procedures Common to Both Joint Planning and Cooperating Agency Status

1. The agencies will use the procedures outlined in Section IV. - PROJECT LEVEL PLANNING UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT to initiate and conduct joint planning or cooperative planning.
2. Any request from either agency requesting joint planning or cooperating agency status shall be made in writing to the Forest or the County Court as applicable. Each agency shall respond in writing in a timely manner to such a request given the scheduling needs of the requesting agency.
3. It is recommended that when the agencies are entering into a formal relationship (joint planning or cooperating agency status), a supplemental MOU should be executed which identifies the respective roles and responsibilities of each party as regards that specific project planning process.

SECTION V1. FOREST PLAN IMPLEMENTATION

- A. The Region 6 Forest Plan Implementation Strategy (Steps of the Journey) is an optional analysis process that may occur between Forest Plan decisions and project level decisions. Its purpose is to identify a desired condition for a defined area on the Forest. This process does not involve NEPA decisions. The process serves as a source of proposals. It is not a prerequisite for either Forest-level planning (NFMA) or project-level planning (NEPA).
- B. Participation by the Public, State and local government, and the Nez Perce tribes helps in defining the ecosystem management area to be analyzed, compiling pertinent data for the existing conditions, developing the desired conditions for the area, and identifying possible management practices.
- C. This analysis may result in the following:
 1. Description of historical conditions.
 2. Description of existing conditions.
 3. Description of desired conditions.
 4. List of possible management practices.
- D. The Forest will give notice to the County and provide the appropriate opportunities for full participation by the County in development of the four products of ecosystem management planning listed above (Section VI.C.).
- E. The County will participate as it determines appropriate. County Participation in this process does not affect in any way county participation in either Forest-level planning (NFMA) or project-level planning (NEPA).

SECTION V11. FOREST LEVEL PLANNING UNDER THE NATIONAL FOREST MANAGEMENT ACT (NFMA)

- A. The Forest is committed to implementing the requirements for coordination with the County according to 36 CFR 219.7 at the time that the revision for the Wallowa-Whitman National Forest Land Management Plan (hereinafter known as the "Plan")

B. According to 36 CFR 219.7(a-e) the Forest Supervisor shall:

1. Provide notice of the preparation of the Plan to the County at the earliest possible time, along with a general schedule of anticipated planning activities;
2. Cooperate with the County to review the Wallowa County Comprehensive Land Use Plan to understand the County' planning objectives, to assess the interrelationship of the Forest Plan and the Wallowa County Plan, and other pertinent Federal, State and local land use plans, and to consider means for resolving any conflicts identified.
3. In addition to the Forest Plan scoping for the Environmental Impact Statement (EIS), it is anticipated that the Forest Supervisor will, at a minimum, meet with the County three (3) times: 1) at the beginning of the forest planning process to develop procedures for coordination; 2) to validate issues which the County has identified; and 3) prior to recommending the preferred alternative in the draft EIS;
4. Seek input from the County to help resolve issues and identify areas where additional research is needed;
5. Cooperate with the County to conduct appropriate monitoring and evaluation of the effects on land, resources, and communities adjacent to or near the Forest and nearby hinds under County jurisdiction.

D. In addition to 36 CFR 219.7, the above process will also include the following:

1. The County and Forest may solicit public input for the Plan either individually or jointly using methods including, but not limited to, holding public hearings or meetings, public service announcements, open houses, etc.
2. The County shall coordinate with the Forest, utilizing any available resources, including universities, to develop meaningful and useful social, economic and cultural data and information which will assist the Forest in evaluating the impact that Plan revision and significant amendments thereto would have on those resources.
3. The Forest shall monitor, as appropriate, its plan implementation regarding possible social, economic and cultural impacts that may occur as a result of its decisions or pending decisions and inform the County in as timely a manner as possible.
4. Based on the results of monitoring, the County may request that the Plan be revised or significantly amended. The Forest Supervisor has authority to determine if the Plan will be significantly amended or revised (36 CFR 219.10(f)).

SECTION VIII. FOREST INVOLVEMENT IN COUNTY PLANNING

- A. It is recognized that the Forest administers a large portion of the land base of the County, and that Forest employees are members of the community and contribute greatly to the economic stability of the County. As such the Forest and the County are interdependent both economically and socially. Therefore, both agencies desire that the Forest participate, to the extent appropriate, in County planning processes.
- B. The County will give timely written notice of proposed ordinances, policies and procedures to be considered by the County that may be of interest to the Forest. At a minimum, the County will mail or

fax the agenda of any County meetings to the appropriate Responsible Official(s). The County shall also provide early notice, either by telephone or in writing, of any such activities for Forest notification and for possible Forest involvement.

- C. At the request of the County or its advisory committee(s), the Forest will provide information and participate in the County's planning process to fullest extent practicable.
- D. The County will provide to the Forest copies of any County ordinances, policies or procedures or activities that might be pertinent to the Forest at the time they are approved by the Court.

SECTION IX. MISCELLANEOUS

- A. If either agency learns of proposals that may have an impact on the other, it shall inform the other in a timely manner.
- B. In the case of an action with a short deadline for decision making for which these procedures cannot be followed, one party will contact the other promptly.
- C. The Forest and the County shall meet in October and March of each year to exchange information, including as appropriate, projected annual receipts that the county will receive from the Forest, budget overviews, noxious weed control, new management practices, Forest Service employment trends, and upcoming projects that either the County or the Forest are contemplating that May be of interest to both parties.

SECTION X. CONFLICT RESOLUTION

In the event of disagreement over the implementation or interpretation of this MOU, either agency may request a meeting between the Forest, and the County to attempt to resolve the dispute. Each agency shall have the opportunity to present their concerns and will strive to reach a consensus.

SECTION XI. GENERAL PROVISIONS

- A. This agreement is subject to being terminated by either party upon sixty (60) days written notification of such intent. This notification must be made by registered mail, return receipt requested, to the Forest Supervisor or the Judge of the County Court as appropriate.
- B. Each agency will provide a list of points of contact for their organization within 15 days of execution of this MOU and within 15 days of a change in points of contact.
- C. No member or Delegate to Congress or local official shall be admitted to any share or part of this MOU, or any benefit that may arise there from; but this provision shall not be construed to extend to the MOU it made for a corporation or its general benefit.
- D. Supplements or amendments to this MOU may be proposed by either party and shall become effective upon approval by both parties.
- E. In implementing this MOU, there shall be no discrimination against any person because of race, religion, color, sex, or national origin.

F. Nothing in the MOU shall be construed as obligating the parties in the expenditures of funds or for the future payment of money in excess of appropriation authorized by law.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date below.

Robert M. Richmond, Forest Supervisor
Wallowa-Whitman National Forest

Jan. 26, 1995
Date

Arleigh G. Isley, Judge
Wallowa County Court

11/7/94
Date

Pat Wortman, Commissioner
Wallowa County Court

11/7/94
Date

Benjamin Boswell, Commissioner
Wallowa County Court

11/7/94
Date