

# PETITION FOR WITHDRAWAL OF THE SMITH RIVER WATERSHED

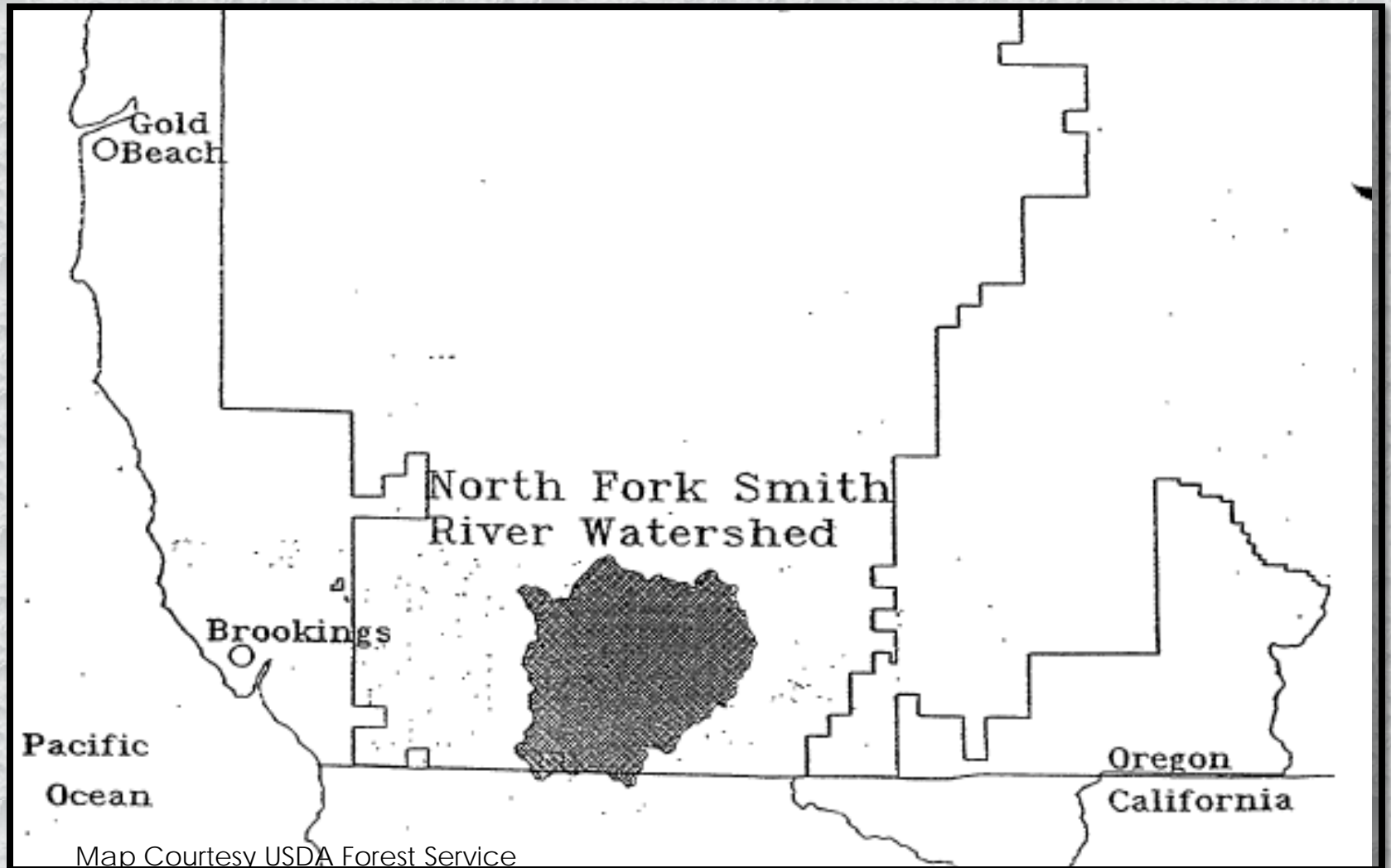
RACQUEL RANCIER, SENIOR POLICY  
COORDINATOR

# OVERVIEW

- North Fork Smith River
- Smith River Petition for withdrawal
- Overview of withdrawal statute
- Issues posed by statute
- Other options
- Recommendations
- Commission Decision

Baldface Creek  
North Fork Smith River

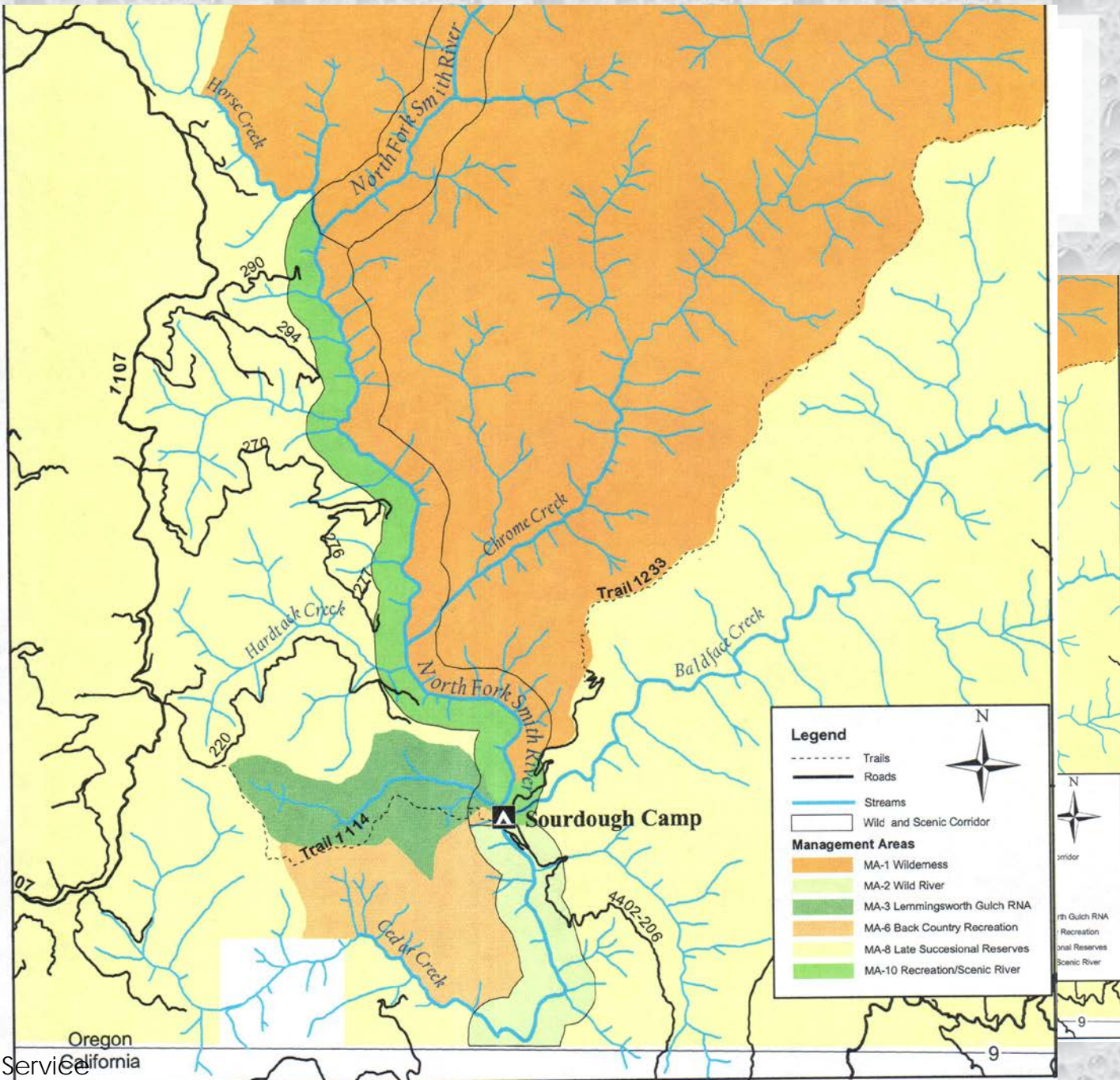
# NORTH FORK SMITH RIVER



Map Courtesy USDA Forest Service

# WILD SM

- Recreation: fishing, snowshoeing, hiking, hunting, camping and rafting
- Steelhead: Also considered a fishery dependent on riparian habitat
- High water scenic view habitat protection
- Source: Wild and Scenic River Plan March 2007



# WATERSHED IN OREGON

## Rough and Ready and Baldface Creeks Mineral Withdrawal Proposal

Coos Bay District and Medford District

This map prepared at the request of Senator Ron Wyden and Representative Peter DeFazio  
January 12, 2015

### LEGEND

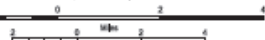
- Federal Highway
- State Highway
- State Boundary
- County Boundary
- BLM District Boundary
- BLM Resource Area Boundary
- Proposed Rough and Ready and Baldface Creeks Mineral Withdrawal
- BLM Administered Land
- Area of Critical Environmental Concern
- US Forest Service Administered Land



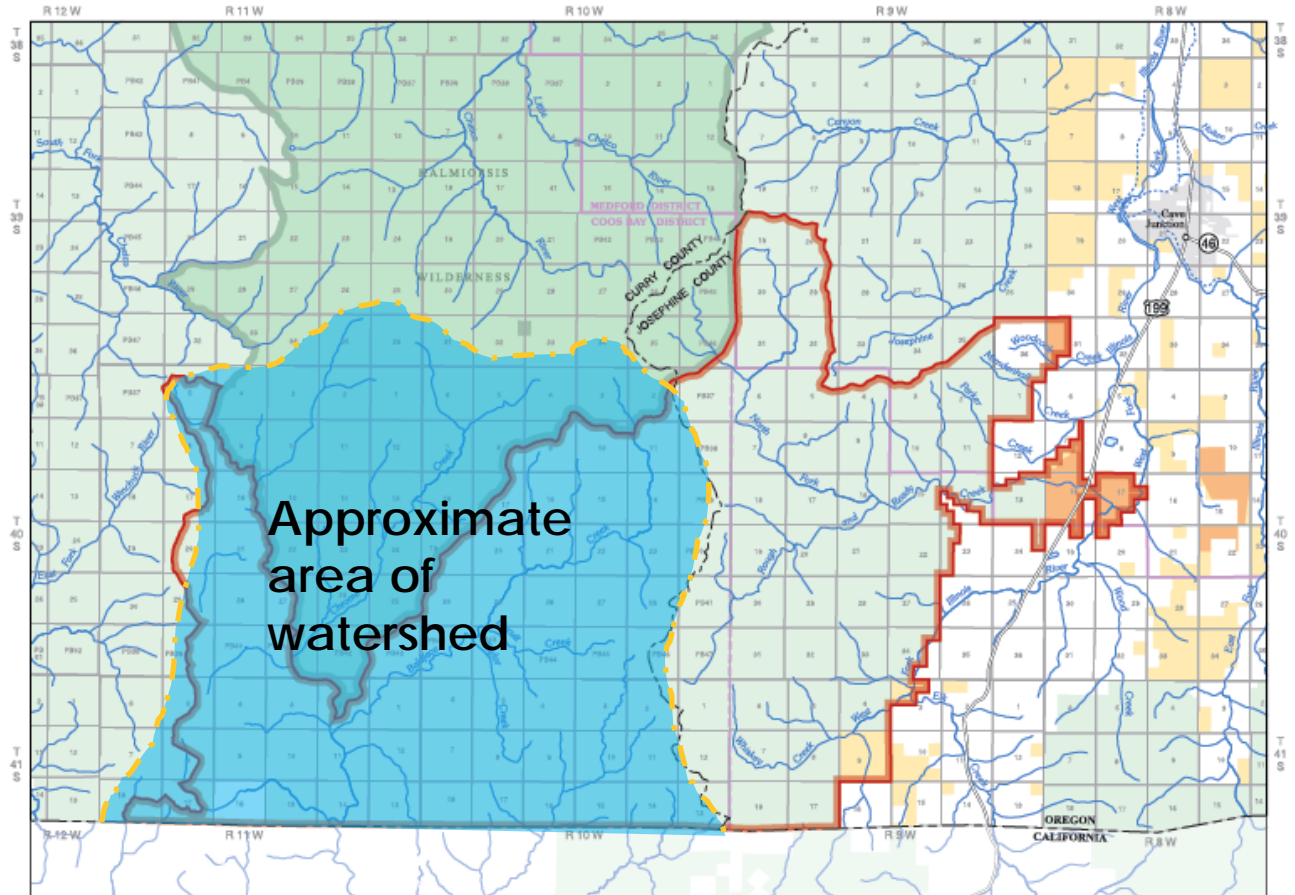
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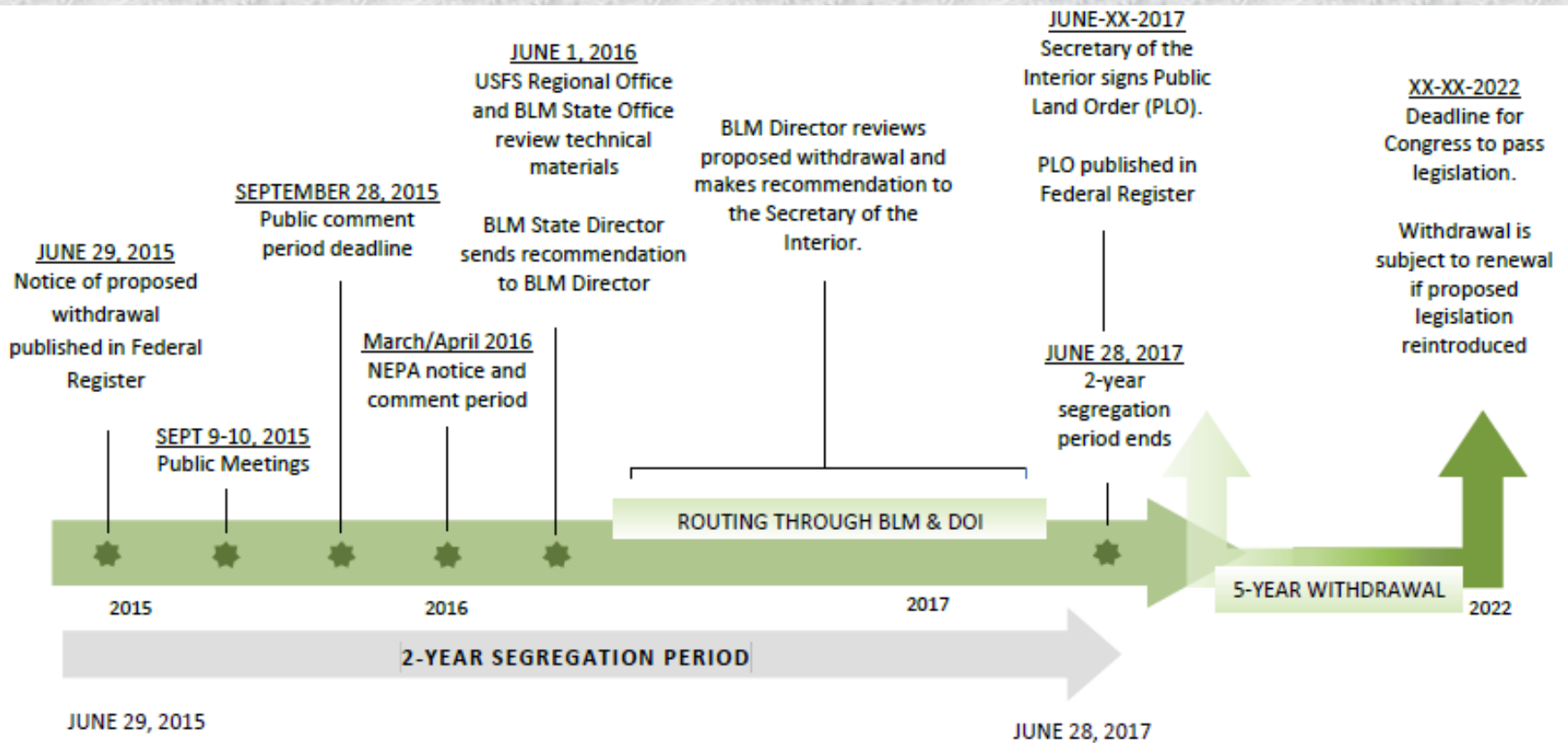
Scale 1: 126,720 when plotted at 11x17



BLM  
Bureau of Land Management  
North American Datum of 1983



# FEDERAL MINING SEGREGATION PERIOD



Courtesy USDA Forest Service

# PETITION FOR WITHDRAWAL

- Delivered at September Commission Meeting
- Proposes to withdraw all surface and groundwater from appropriation
  - Except for instream
  - Including exempt uses

# WITHDRAWAL STATUTE

- ORS 536.410 - Commission can issue an order to withdraw
- Must hold a public hearing first
- Standard of review:
  - order is necessary to ensure compliance with the state water resources policy, or
  - in the public interest to conserve water resources for the maximum beneficial use and control



# WITHDRAWAL STATUTE

- Order specifies:
  - the waters withdrawn
  - the uses for which the waters are withdrawn
  - the reasons for the withdrawal
  - the duration of the withdrawal

# ISSUES POSED BY STATUTE

Order:

“any agency action expressed orally or in writing directed to a named person or named persons, other than employees, officers or members of an agency”

# ISSUES POSED BY STATUTE

- Rule:

“agency directive, standard or statement of general applicability that implements, interprets or prescribes law or policy.”

# OTHER OPTIONS

- Scenic Waterway
- ODFW, OPRD, ODEQ apply for instream water rights
- Legislative withdrawal
- Basin program amendment to classify waters or reclassify waters

# CONCLUSION

- Issuing withdrawal order legally problematic
- Do not pursue action under ORS 536.410
- If interested in pursuing, more properly done through a basin program amendment
  - Includes public process
    - Rules advisory committee
    - Notice in local newspapers
    - Hearing in the basin
  - Criteria and challenges with this approach needs further analysis

# COMMISSION ACTION

The Commission may consider the following alternatives:

- 1. Take no action on the petition and direct the Department to evaluate other options and report back to the Commission.
- 2. Take no action on the petition and direct the Department to provide further information on the merits of the petition in order for the Commission to consider pursuing withdrawal under ORS 536.410.
- 3. Deny the petition and direct the Department to take no further action.

# DIRECTOR'S RECOMMENDATION

The Director recommends Alternative 1.

- 1. Take no action on the petition and direct the Department to evaluate other options and report back to the Commission.
- 2. Take no action on the petition and direct the Department to provide further information on the merits of the petition in order for the Commission to consider pursuing withdrawal under ORS 536.410.
- 3. Deny the petition and direct the Department to take no further action.