

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
GRANTS PASS RESOURCE AREA

**Categorical Exclusion Determination and Decision Record for
the issuance of an
O&C Logging Road Right-of-Way Permit No. M-5021 (OR 065570-FD)
Josephine County Kerby Mainline Timber Sale
CE-OR-117-08-36**

Location and Name of Applicant:

T. 39 S., R. 8W., Section(s): 2,
Medford District, Grants Pass Resource Area, Josephine County
HUC-171003110601- Reeves Creek (see Exhibit A Map attached).
Applicant: Josephine County Forestry Program

Background

Under the terms of the Memorandum of Understanding between the United States, Bureau of Land Management, Medford District and Josephine County, dated May 3, 1990, when Josephine County wishes to use BLM roads, the County shall submit their timber sale plan to the BLM and the BLM will determine if it has objections to the County's planned action. When there are no objections, the BLM shall furnish to the County a partially completed O&C Logging Road Right-of-Way permit which will be issued to the successful timber sale purchaser. This partially completed permit contains the terms and conditions for which the purchaser must comply. Upon award of the timber sale, the BLM will issue the permit to the successful purchaser. This document analyzes the impacts of the permit to be issued to the successful purchaser.

This proposed action is consistent with management direction in the Medford District Resource Management Plan that directs the BLM to continue to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans, Oregon state-wide planning goals and rules, and the exclusion and avoidance areas identified in the Resource Management Plan (USDI 1995, p. 82).

Description of Proposed Action:

Josephine County Forestry is planning their Kerby Mainline Fire Salvage Sale timber sale to be offered in August of 2008. The proposed action is the issuance of an O&C Logging Road Right-of-Way Permit to the purchaser of Josephine County's timber sale, under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743.

This permit has been designated as Permit No. M-5021 (OR 065570 FD). The requested period of use is for three months, with the possibility of one-year extensions at the discretion of the Authorized Officer. The permit will allow commercial hauling of approximately 250 MBF of private timber over existing U.S. road(s). Utilization of these roads would, by itself, not facilitate

any ground-disturbing actions on federal lands. The permit would not be a determining factor as to whether ground-disturbing actions would occur on private lands.

The area to be harvested is identified as:

Area to Be Harvested			
T.	R.	Sec.	Subdivision
39S	8W	2	NENE

The following table identifies the U.S. roads to be used and estimated timber volumes to be hauled over each road and the anticipated haul periods:

BLM Roads to be Used						
BLM Road and Segment No.	Seg. Length	Length to be Used	Present Surface Type	Haul Period	Estimated Timber Volume to be Hauled (MBF)	Estimated Mineral Volume to be Hauled (CY)
39-8-4A	1.33	1.33	BST	3 months	250	NA
39-8-4B1	.36	.36	BST	3 months	250	NA
39-8-4B2	.19	.19	BST	3 months	250	NA
39-8-4C	.1.23	.60	ACS	3 months	250	NA

The haul route and roads are located in Josephine County on BLM lands administered by the Grants Pass Resource Area and crosses federal General Forest Management Area land allocation. The specific roads to be used and area to be harvested are located on the attached map labeled as Exhibit A.

Project Design Features

Project design features and stipulations included in Exhibit B -- RIGHTS-OF-WAY / LEASE / PERMIT STIPULATIONS.

Plan Conformance Review

This proposed action is consistent with policy directed by the following:

- the *Final Supplemental Environmental Impact Statement and Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan FSEIS, 1994 and ROD, 1994);
- the *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (EIS, 1994 and RMP/ROD, 1995);
- the *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004);
- *Medford District Integrated Weed Management Plan Environmental Assessment (1998)* and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985)
- Final Supplement to the 2004 *Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (FSEIS, 2007 and ROD, 2007).
- *Final Supplemental Environmental Impact Statement and Record of Decision and Standards and Guidelines for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (FSEIS 2000 and ROD 2001) including any amendments or modifications in effect as of March 21, 2004;

The proposed action is in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act, and the Archaeological Resources Protection Act of 1979.

Categorical Exclusion Determination

This proposed action qualifies as a categorical exclusion as provided in United States Department of the Interior Departmental Manual 516 DM 11.9.E.16. This section allows for "Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes."

Before any action described in the list of categorical exclusions may be used, the "extraordinary circumstances," included in 516 DM 2, Appendix 2, must be reviewed for applicability (See attached review). After review, the BLM determined no extraordinary circumstances exist that would cause the proposed action to have a significant environmental effect. The action will not require additional analysis.

Contact Person

For additional information concerning this project, contact Carl Symons, Project Leader, at (541) 471-2216

Prepared and reviewed by:

 8-19-08

Mike Mathews, Environmental Planner Date
Grants Pass Resource Area

Decision

It is my decision to authorize O&C Logging Road Right-of-Way Permit No. M-2051 (serial No. OR 065570 FD) as described in the Proposed Action. The project is planned for implementation August, 2008.

Decision Rationale

The proposed action has been reviewed by the Grants Pass Resource Area staff and appropriate Project Design Features, as specified above, will be incorporated into the proposal. Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the environment and no further environmental analysis is required.


for Abbie Jossie, Field Manager
Grants Pass Resource Area

8/27/08
Date

ADMINISTRATIVE REMEDIES:

Administrative review of right-of-way decisions requiring National Environmental Policy Act (NEPA) assessment will be available under 43 CFR Part 4 to those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized would cause injury, and who have established themselves as a “party to the case.” (See 43 CFR § 4.410 (a) – (c)). Other than the applicant/proponent for the right-of-way action, in order to be considered a “party to the case” the person claiming to be adversely affected by the decision must show that they have notified the BLM that they have a “legally cognizable interest” and the decision on appeal has caused or is substantially likely to cause injury to that interest (See 43 CFR § 4.410(d)).

EFFECTIVE DATE OF DECISION

This is a lands decision on a right-of-way action in accordance with BLM regulations at 43 CFR Subpart 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after the date of service) where no petition for a stay is filed, or 45 days after the expiration of the appeal period where a timely petition for a stay is filed, unless the Director of the Office of Hearings and Appeals or an Appeals Board has determined otherwise in accordance with specified standards enumerated in 43 CFR 4.21(b).

RIGHT OF APPEAL

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a “party to the case.” (See 43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after the date of service. Only signed hard copies of a notice of appeal that are delivered to:

*BUREAU OF LAND MANAGEMENT
GRANTS PASS INTERAGENCY OFFICE
2164 NE Spalding
Grants Pass, OR 97526*

will be accepted. Faxed or e-mailed appeals will not be considered.

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant’s success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor and Josephine County Department of Forestry at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations. 43 CFR § 4.413(a). At the end of your notice of appeal you must sign a certification that service has been or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413) and specify the date and manner of such service.

The IBLA will review any petition for a stay and may grant or deny the stay. If the IBLA takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until IBLA makes a final ruling on the case.

HOW TO FILE AN APPEAL

See the attached Form 1842-1 for complete instructions on Filing an Appeal

CONTACT INFORMATION

For additional information contact:

Abbie Jossie, Field Manager, Grants Pass Resource Area
Grants Pass Interagency Office
Bureau of Land Management
2164 NE Spalding
Grants Pass, OR 97526
(541)471-6652

Or Mike Mathews (Grants Pass Resource Area Environmental Planner) at (541)471-6565

Additional contact addresses include:

- U.S. Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy Street, MS 300-QC
Arlington, Virginia 22203
- Regional Solicitor
Pacific Northwest Region
U.S. Department of the Interior
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232
- Josephine County Forestry Program
County Courthouse, Department 8
500 NW 6th Street
Grants Pass, OR 97526

Attachments:

Exhibit A Map

Exhibit B Road Use Stipulations

Form 1842-1

NEPA Categorical Exclusion Review

O&C Logging Road Right-of-Way Permit No. M-5021 (OR 065570 FD) Josephine County Kerby Mainline Timber Sale CE-OR-117-08-36

Department of the Interior Manual 516 DM 2, Appendix 2 provides for a review of the following criteria for categorical exclusion to determine if exceptions apply to the proposed action based on actions which may:

1. *Have significant impacts on public health or safety.*
Yes No
() Remarks:
2. *Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resource;, park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.*
Yes No
() Remarks:
3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*
Yes No
() Remarks:
4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*
Yes No
() Remarks:
5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*
Yes No
() Remarks:
6. *Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*
Yes No
() Remarks:
7. *Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.*
Yes No
() Remarks:
8. *Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.*
Plants Yes No Remarks:
Animals Yes No Remarks:
Fish Yes No Remarks:
() Remarks:

9. *Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.*

Yes No

() Remarks:

10. *Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).*

Yes No

() Remarks:

11. *Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).*

Yes No

() Remarks:

12. *Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).*

Yes No

() Remarks:

Reviewers:

Robert Murray 8/19/08
Date
Silviculture, Vegetation Dynamics
& Port-Orford Cedar

Ann Ants 8/17/08
Date
Botany

Anna Brennan 8/08/2008
Date
Cultural Resources

Jon Rayner 8/18/08
Date
Fisheries

John G. Smider 8/17/08
Date
Wildlife

Dave Manner 8/18/08
Date
Soils/Hydrology

CT ADT 8/18/08
Date
Visual Resources / Recreation

Jim Popper 8/20/08
Date
Engineering

EXHIBIT B: RIGHTS-OF-WAY / LEASE / PERMIT STIPULATIONS

The Holder shall comply with the applicable Federal and State laws and regulations concerning the use of pesticides (i.e., insecticides, herbicides, fungicides, rodenticides, and other similar substances) in all activities/ operations under this grant. The Holder shall obtain from the Authorized Officer approval of a written plan prior to the use of such substances. The plan must provide the type and quantity of material to be used; the pest, insect, fungus, etc. to be controlled; the method of application; the location for storage and disposal of containers; and other information that the Authorized Officer may require. The plan should be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year (i.e., December 1, 1979, deadline for a fiscal year 1981 action). Emergency use of pesticides may occur. The use of substances on or near the right-of-way shall be in accordance with the approved plan. A pesticide shall not be used if the Secretary of the Interior has prohibited its use. A pesticide shall be used only in accordance with its registered uses and within other limitations if the Secretary has imposed limitations. Pesticides shall not be permanently stored on public lands authorized for use under this grant.

The Holder shall promptly remove and dispose of all waste caused by its activities as directed by the Authorized Officer. The term "waste" as used herein means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, petroleum products, ashes, and equipment.

The United States will not be held liable for any damage to the road caused by the general public or as a result of fire, wind, or other natural disasters or as a result of silvicultural practices, timber harvesting operations, or other actions stemming from the land management activities of the Bureau of Land Management.

Cultural and Paleontological Resources. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

The Holder shall not use dirt roads as access routes when such use would cause severe rutting or erosion, as determined by the Authorized Officer. Construction, use, maintenance, and termination activities shall be suspended on public lands if soil condition warrants, as determined by the Authorized Officer.

The holder will be responsible for all preventive and corrective access road maintenance operations under this grant on roads 39-8-4a, 39-8-4b1, 39-8-4b2, and 39-8-4c2. This may include, but not be limited to, blading the roadway, cleaning the ditches and drainage facilities, dust abatement, or other requirements as directed by the Authorized Officer.

The Holder shall contact the Authorized Officer or his representative at least 15 days prior to the anticipated start of log hauling to schedule a prehauling conference. This conference shall be attended by the Holders, or his designated representative(s), and all contractors or agents involved with hauling activities under this grant, and the Authorized Officer or his representative(s). The Authorized Officer is the BLM Grants Pass Field Manager, and his designated representative is:

Name: Jim Roper
Title: Grants Pass Area Engineer
Address: 2164 NE Spalding Ave., Grants Pass, OR 97526
Telephone No: 541-471-6631

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

- 1. This decision is adverse to you,
AND
- 2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE	
NOTICE OF APPEAL.....	U.S. Department of the Interior, Bureau of Land Management Grants Pass Interagency Office 2164 NE Spalding Grants Pass, OR 97526
WITH COPY TO SOLICITOR...	U.S. Department of the Interior Office of the Regional Solicitor, Pacific Northwest Region 805 S.W. Broadway, Suite 600 Portland, OR 97205
3. STATEMENT OF REASONS	Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR.....	U.S. Department of the Interior Office of the Regional Solicitor, Pacific Northwest Region 805 S.W. Broadway, Suite 600 Portland, OR 9720
4. ADVERSE PARTIES	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
5. PROOF OF SERVICE	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
6. REQUEST FOR STAY	<p>Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.</p> <p>Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.</p>

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)

