

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

**Categorical Exclusion Determination and Decision Record
 for Amendment No. 11 to Swanson Group Mfg. LLC.
 O&C Logging Road Right-of-Way Permit No. M-1396, OR 53779 FD
 CE-OR-117-08-07**

Location:

T. 35S, R., 7W, Section(s) 27 and 28, Medford District, Grants Pass Resource Area, Josephine County, Oregon HUC-171003100102 (see Exhibit C map attached).

Description of Proposed Action Including Purpose of Action:

The proposed federal action is the issuance of an amendment, No. 11 to O&C Logging Road Right-of-Way Permit No. 1396, (OR 53779 FD), held by Swanson Group Mfg. LLC., under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743. The amendment proposal is to add existing BLM roads and two (2) existing helicopter landings (on U.S. lands) and/or BLM rights-of-way over private land for the purposes contained in the permit, which is “management and removal of timber and other forest products.”

The affected roads are located in Josephine County on BLM lands administered by the Grants Pass Resource area and cross federal land classified as Matrix and Riparian Reserve, and/or cross private lands over which BLM controls the road through a private easement. The specific roads to be added are shown on the attached map labeled as Exhibit C – Amendment No. 11 (M-1396). All roads are natural surface except 34-7-7-27.00 which is coarse aggregate surfaced.

The location of and identification of the specific U.S. roads on U.S. land to be added by amendment and the term of the amendment is identified in the following table.

Town-ship	Range	Sec-tion	Subdivision	Road & Segment No.	Length	Period of Time
35S	7W	27	NWSE	35-7-27.00	0.06	Perpetual
35S	7W	27	SWNE, SWNW	35-7-27.02	0.40	Perpetual
35S	7W	27	N2NW, NWSW	35-7-27.07	0.43	Perpetual
35S	7W	28	N2SW	35-7-27.07	0.55	Perpetual
35S	7W	27	E2SW	35-7-27.08	0.25	Perpetual
35S	7W	27	SWSW	Helicopter landing		Perpetual
35S	7W	28	NESW	Helicopter landing		Perpetual

The location of and identification of the specific U.S. right-of-way over private land to be added by amendment, and the term of the amendment is identified in the following table. This is a coarse aggregate surfaced road.

Township	Range	Section	Subdivision	Road & Segment No.	Easement No. or Right-of-Way Agreement No. & Recording Info.	Length	Period of Time
35S	7W	27	NWSE	35-7-27.00	Rem-327	0.05	Perpetual

Utilization of the above roads to be added by amendment would not by itself facilitate any ground-disturbing actions on federal lands. The amendment would not be a determining factor as to whether ground-disturbing actions would occur on private lands.

Project Design Features

The Permit will be issued with the following environmental stipulations:

- Soils/Hydrology

Between October 15th and May 15th, hauling will be prohibited on all unimproved road surfaces to periods of dry weather conditions unless the road is rocked prior to use to prevent erosion, and only when permission to haul is specifically granted by an Authorized Officer.

- Botany –

All ground disturbing/yarding equipment used on BLM lands must be washed prior to entering BLM lands to remove any dirt or vegetation that may harbor noxious weed seeds.

No mechanical road maintenance activities will occur in sensitive or Threatened & Endangered plant species sites.

To prevent impacts to *Fritillaria gentneri*, brushing will occur only between June 15th and February 1st.

Note that there are no known sensitive or Threatened & Endangered plant sites in the project area.

Prior to use of the roads the Permittee shall file a request for terms and conditions of use and the specific terms and conditions (road rules) will be established at that time.

Plan Conformance Review

This proposal 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);
- the *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;
- *Medford District Integrated Weed Management Plan Environmental Assessment (1998)* and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985)

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.

This proposal 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).

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, 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.

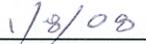
Contact Person

For additional information concerning this project, contact Carl Symons Project Lead, or Tony Kerwin, Grants Pass Resource Area Environmental Planner at (541) 471-6564.

Prepared by:



 Anthony Kerwin, Environmental Planner
 Grants Pass Resource Area



 Date

Decision

It is my decision to approve amendment No. 11 to O&C Logging Road Right-of-Way Permit No. 1396 (OR 53779 FD) as described in the Proposed Action. The project is planned for implementation in the winter of 2008.

Decision Rationale

The proposed action has been reviewed by 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.

 1-8-08
Abbie Jossie, Field Manager,
Grants Pass Resource Area

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). The date the Categorical Exclusion Decision is approved by the Authorized Officer, will establish the date initiating a 30 day appeal period.

EFFECTIVE DATE OF DECISION

This is a lands decision on a right-of-way action in accordance with BLM regulations under 43 CFR Part 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after this decision is signed) 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." (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 this decision is approved. Only signed hard copies of a notice of appeal that are delivered to the Grants Pass Interagency Office will be accepted. Faxed or emailed appeals will not be considered.

In addition to the applicant/proponent for the right-of-way action, anyone who has participated in the National Environmental Policy Act process for this project will qualify as party to the case (43 CFR § 4.410(b)). However, in order to qualify as a "party to the case," you also have the burden of showing possession of a "legally cognizable interest" that has a substantial likelihood of injury from the decision (43 CFR § 4.410(d)).

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 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 (43 CFR § 4.421 (b)).

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor and Swanson Group Mfg. LLC., and any other adverse party identified by name in the decision 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 §§ 4.401(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.

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

CONTACT INFORMATION

For additional information contact Abbie Jossie, Grants Pass Resource Area Field Manager, 2164 NE Spalding Ave., Grants Pass, OR 97526, or Tony Kerwin, Environmental Planner, (541) 471-6564. 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
- Swanson Group Mfg. LLC.
P.O. Box 250
Glendale, OR 97442

Attachments:

Exhibit A Map

Form 1842-1

NEPA Categorical Exclusion Review

Proposed Action:

The BLM proposes to approve amendment No. 11 to O&C Logging Road Right-of-Way Permit No. M-1396 to Swanson Group Mfg. LLC. for a perpetual term under the provisions of 43 CFR 2812.

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.*

No

Remarks: No ground disturbing activity beyond standard road maintenance will occur. All activities on federal lands will occur on currently existing landings and roads.

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.*

No

Remarks: No ground disturbing activities are proposed other than road maintenance.

3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*

No

Remarks: There is no ground disturbing activities proposed beyond road maintenance; this will not preclude alternative uses of available resources.

4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*

No

Remarks: This is a regular activity under the RMP; there are not uncertain or potentially significant effects or unknown environmental risks.

5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*

No

6. *Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*

No

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.*

No

Remarks: There are no listed or eligible properties in the project area.

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	<u>No</u>	Remarks: Project Design Features will prevent disturbance of plant sites by road maintenance or hauling of timber.
Animals	<u>No</u>	Remarks: There are no known T&E animals in the project area.
Fish	<u>No</u>	Remarks: There will be no significant impacts on listed fish species or habitat.

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

No

Remarks:

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

No

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).*

No

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).*

No

Reviewers:

Conem Francis 12/20/07
Silviculture, Vegetation Dynamics
& Port-Orford Cedar Date

A. Funt 1/8/08
Botany Date

Visa Brem 12/19/07
Cultural Resources Date

Jon Raybar 12/19/07
Fisheries Date

Joel Reef 12/19/07
Wildlife Date

Michael DeSai 12/19/07
Soils/Hydrology Date

Cori Cooper 12-19-07
Visual Resources / Recreation Date

James R. Poyser 12/19/07
Engineering Date

Mark d. S. DATE 12/20/07
FUEL S