

ENVIRONMENTAL ASSESSMENT, FINDING OF NO SIGNIFICANT IMPACT, and DECISION RECORD¹

ENVIRONMENTAL ASSESSMENT

EA Number: OR-086-08-04

BLM Office: Tillamook Resource Area, 4610 Third Street, Tillamook, Oregon, 97141

Proposed Action Title: Weyerhaeuser Right-of-Way Agreement (S-805) Amendment

Type of Project: Right-of-Way Agreement Amendment

Location of Proposed Action: Township 1 South, Range 5 West, Section 36, Washington County; Willamette Meridian.

Conformance with Applicable Land Use Plan: The proposed action is in conformance with the *Salem District Record of Decision and Resource & Management Plan (ROD/RMP)*, dated May 1995; *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and Standard and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl*, dated April, 1994; *Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl* (July 2007).

The proposed action is tiered to *The Roaring Creek Projects Environmental Assessment* (EA # OR-086-07-02) which described timber harvest and associated road construction, use and maintenance in this project area. The Affected Environment and Environmental Effects sections of the *Roaring Creek Projects EA* are incorporated by reference into this EA.

Purpose of and Need for Action:

The objective of the proposed action is to implement the following management direction from the ROD/RMP, pertaining to acquiring access to public lands.

¹ Pursuant to BLM Handbook 1790-1, Rel. 1-1547, 10/25/88, page IV-11, it is appropriate to use this format when all the following conditions are met: 1/ Only a few elements of the human environment are affected by the proposed action; 2/ Only a few simple and straightforward mitigation measures, if any, are needed to avoid or reduce impacts; 3/ There are no program-specific documentation requirements associated with the action under consideration; 4/ The proposed action does not involve unresolved conflicts concerning alternative uses of available resources and, therefore, alternatives do not need to be considered; 5/ The environmental assessment is not likely to generate wide public interest and is not being distributed for public review and comment; and 6/ The proposed action is located in an area covered by an existing land use plan and conforms with that plan.

- Acquire access by entering into new reciprocal right-of-way agreements or amending existing reciprocal right-of-way agreements (p. 57);
- Continue to obtain access across lands of private companies or individuals who are a party to existing reciprocal right-of-way agreements through appropriate agreements (p. 57);

These objectives would be met by amending existing right-of-way (ROW) agreement S-805 between BLM and Weyerhaeuser to include permittee owned lands and roads.

Description of the Proposed Action:

The proposed action is to amend certain permittee owned lands into Weyerhaeuser ROW agreement S-805. The permittee would commit Weyerhaeuser lands lying in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 36, T1S, R5W (Figure 1). This amendment is a discretionary action.

Design Features:

None

Consultation and Public Involvement:

ESA Consultation:

Wildlife: Any future federal activities conducted on the non-federal road segments affected by this Right-of-Way Agreement amendment would be evaluated and consulted upon with USFWS as appropriate.

Current plans include incorporating activities on these segments (maintenance and use) into the Roaring Creek Density Management Project. Potential disturbance resulting from implementation of the Roaring Creek Density Management Project *MAY AFFECT but is NOT LIKELY TO ADVERSELY AFFECT* spotted owls however none of the identified potential disturbance resulting from the Density Management Project are a result of maintenance and/or use of roads affected by the new Right-of-Way Agreement or Right-of-Way Agreement amendment. This is a result of the fact that there currently is no suitable habitat within 0.25 miles of the affected road segments.

Fish: Consultation is not required for fish species covered under section 7 of the Endangered Species Act (Upper Willamette steelhead) or for coho covered under the Magnuson-Stevens Fisheries Conservation and Management Act as there were no effects identified that would affect these species or their habitat with the addition of these parcels to the ROW agreement. Future actions planned or implemented by the BLM would have consultation completed prior to implementation when required; this includes actions occurring on these added lands.

Public Involvement: In compliance with the National Environmental Policy Act, the proposed action was listed in the December 2007 and March 2008 editions of the quarterly *Salem District*

Project Update, which was mailed to over 1,200 addresses. No public comments were received in response to this scoping. In addition, the associated Roaring Creek Projects EA was extensively scoped and sent out for public comment, and no comments were received regarding access on these lands.

Affected Environment:

General: The project is within the Scoggins Creek and North Yamhill River 5th field watersheds, located approximately 10 miles southwest of Forest Grove, Oregon. The lands affected are owned by Weyerhaeuser and are being managed for timber production. Vegetation in the project area generally consists of young forested stands, including new plantations, on private and private industrial lands.

Threatened/Endangered (T/E) Fish: Habitat (spawning and rearing) for Upper Willamette Steelhead (ESA threatened) is located within the project area. There is no designated critical habitat for Upper Willamette Steelhead within Roaring Creek or the North Yamhill River, the action area for the addition of these lands. Upper Willamette steelhead have been found in the Tualatin River adjacent to these parcels. Upper Willamette Chinook (ESA threatened) are located more than ten miles downstream from the project area. There is no designated critical habitat for Upper Willamette Chinook within the project area.

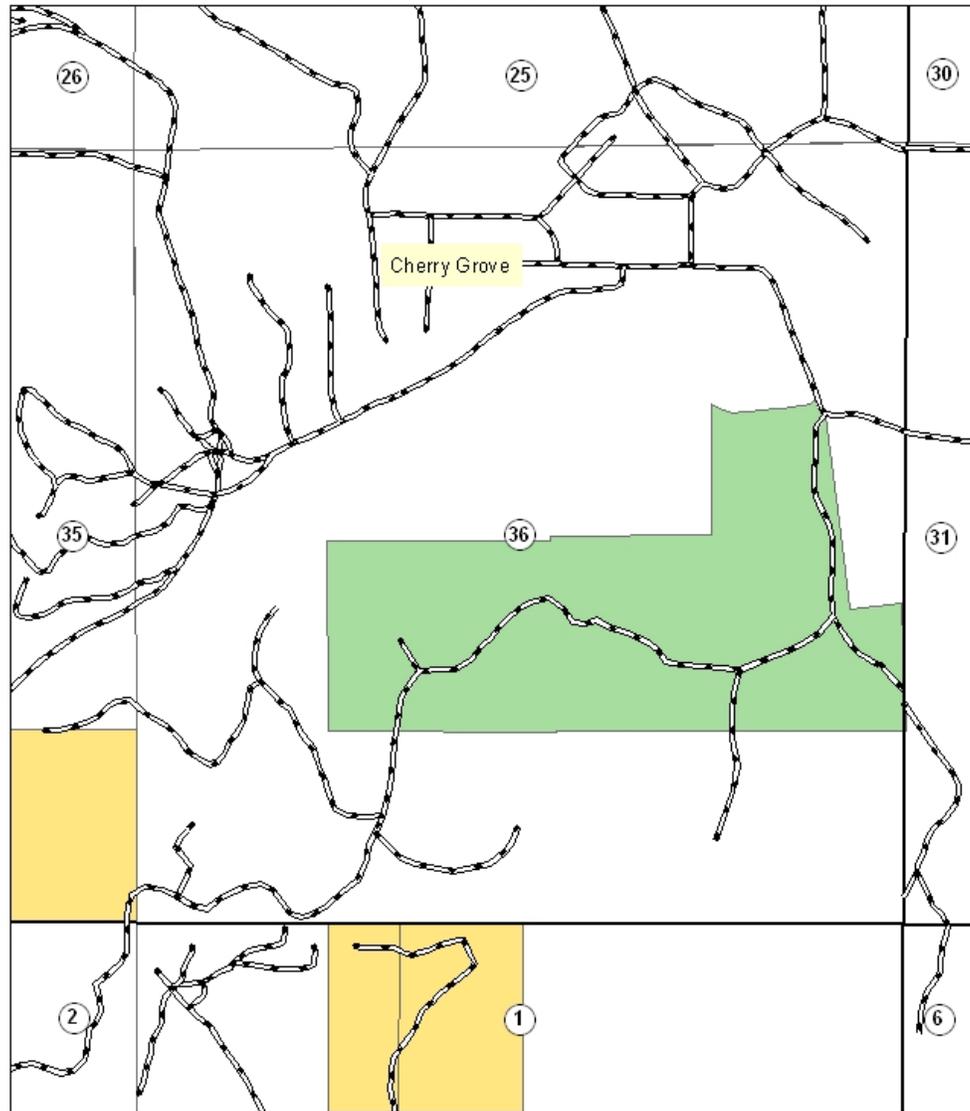
Threatened/Endangered (T/E) Wildlife: The project areas are not located within spotted owl or marbled murrelet Designated Critical Habitat. There are no known occupied spotted owl or marbled murrelet sites located in the vicinity of this proposal. The non-federal parcels affected by this action currently are not near (within 0.25 miles) of any suitable habitat for the spotted owl or marbled murrelet.

Water Resources: The primary beneficial uses are for domestic use, irrigation, cold water fisheries, recreation, and wildlife. The existing road on the lands being added to the ROW Agreement crosses several small intermittent and perennial tributaries to the Tualatin River.

Other Special Status Species Fish and Essential Fish Habitat: Coho salmon are present in the Tualatin watershed. The current proposal to add these lands does not result in effects to coho or their habitat. All populations of coho are included in the Magnuson Stevens Fisheries Conservation and Management Act and as they are present on or just downstream of the lands being added there is the potential of future actions that may affect Essential Fish Habitat.

Figure 1 - Lands for Weyerhaeuser ROW Amendment

T1S R5W Section 36



0 1,000 2,000 Feet



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. Digital data was compiled from multiple source data and may not meet U.S. National Mapping Accuracy Standards or the Office of Management and Budget.

-  Roads
-  BLM
-  Lands To Add To ROW Agreement



Environmental Effects:

The interdisciplinary team reviewed the elements of the environment, required by law, regulation, Executive Order and policy, to determine if they would be affected by the proposed action. *Table 1* (Critical Elements of the Environment from BLM H-1790-1, Appendix 5) and *Table 2* (Other Elements of the Environment) and *Table 3* (Aquatic Conservation Strategy Summary) summarize the results of that review. Affected elements are in **bold**. Unless otherwise noted, the effects apply to the proposed action; and the No Action Alternative is not expected to have adverse effects to these elements.

Table 1: Environmental Review for the Critical Elements of the Environment (BLM H-1790-1, Appendix 5)

<i>Critical Elements Of The Environment</i>	<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Air Quality (Clean Air Act)	Not Affected	No	The proposed action involves an agreement to use roads. As such, the proposed action would have no adverse impact on air quality and would comply with the provisions of the Clean Air Act.
Areas of Critical Environmental Concern	Not Present		There are no ACECs in the project area.
Cultural, Historic, Paleontological	Not Present		There are no known cultural or historic sites within the project area.
Energy (Executive Order 13212)	Not Affected	No	There are no known energy resources located in the project area. The proposed action would have no effect on energy development, production, supply and/or distribution.
Environmental Justice (Executive Order 12898)	Not Affected	No	The proposed action is not anticipated to have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.
Prime or Unique Farm Lands	Not Present		There are no prime or unique farm lands in the project area.
Flood Plains (Executive Order 11988)	Not Present		There are no flood plains in the project area.
Hazardous or Solid Wastes	Not Affected	No	The proposed action would have no affect on hazardous or solid wastes.

Table 1: Environmental Review for the Critical Elements of the Environment (BLM H-1790-1, Appendix 5)

<i>Critical Elements Of The Environment</i>		<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Invasive, Nonnative Species (Executive Order 13112)		Not Affected	No	The proposed action would have no effect on invasive, nonnative species.
Native American Religious Concerns		Not Affected	No	Past projects of this type within this area have not resulted in tribal identification of concerns.
Threatened or Endangered (T/E) Species and/or Habitat	Fish	Not Affected	No	The addition of these lands to ROW agreements would not have any effects on fisheries resources in the project area or downstream. BLM use of these lands and roads added to this ROW agreement will be analyzed as part of our proposed action and consultation completed as necessary.
	Plants	Not Present		No Threatened or Endangered plant species are located within the project area
	Wildlife (including Designated Critical Habitat)	Not Affected	No	The project areas are not within spotted owl or marbled murrelet Designated Critical Habitat and there are no known occupied spotted owl or murrelet sites near the project areas. The non-federal parcels affected by this action currently are not near any suitable habitat for the spotted owl or murrelet.
Water Quality (Surface and Ground)		Not Affected	No	The addition of lands and existing roads to a ROW agreement would not have any affect on water quality either in or downstream of the project area.
Wetlands (Executive Order 11990)		Not Present		There are no wetlands within the project area.
Wild and Scenic Rivers		Not Present		There are no Wild or Scenic Rivers within the project area.
Wilderness		Not Present		There are no wilderness areas within the project area.

Table 2: Environmental Review for the Other Elements of the Environment (Required by law, regulation, policy or management direction)

<i>Other Elements Of The Environment</i>		<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
Coastal Zone (Oregon Coastal Management Program)		Not Present	No	The proposed project is not within Oregon's Coastal Zone boundary.
Essential Fish Habitat (Magnuson-Stevens Fisheries Cons. /Mgt. Act)		Not Affected	No	The addition of these lands to a ROW agreement would not have any effect on fisheries resources in the project area or downstream.
Fire Hazard/Risk		Not Affected	No	The proposed action would have no effect on fire hazard or risk.
Forest Productivity		Not Affected	No	The proposed action would not affect forest productivity.
Land Uses (right-of-ways, permits, etc)		Not Affected	No	The project would not affect other existing rights-of-way on these lands, nor would public access be affected.
Late successional / old growth		Not Present		No late-successional or old growth forest stands are present in the project area.
Mineral Resources		Not Present		There are no known mineral resources of commercial value in the project area.
Recreation		Not Affected	No	The project would not affect public access to the project area, therefore there would be no effect on recreation resources.
Rural Interface Areas		Not Present		There are no rural interface areas within the project area.
Soils		Not Affected	No	The proposed action involves an agreement to use roads. There would be no effect on soils.
Special Areas outside ACECs (Within or Adjacent) (RMP pp. 33-35)		Not Present		There are no Special Areas within the project area.
Other Special Status Species/Habitat	Fish	Not Present		There are no Special Status Fish Species within this project area.
	Plants	Not Present		There are no status species plants or their habitats in the project area.

Table 2: Environmental Review for the Other Elements of the Environment (Required by law, regulation, policy or management direction)

<i>Other Elements Of The Environment</i>		<i>Status: (i.e., Not Present , Not Affected, or Affected)</i>	<i>Does this project contribute to cumulative effects? Yes/No</i>	<i>Remarks</i>
	Wildlife	Not Affected	No	Due to the nature and scope of the project, implementation would not result in the loss of population viability for any Special Status wildlife Species that may occur in the project area, or result in the need to elevate their status to any higher level of concern including the need to list under the ESA.
Visual Resources		Not Affected	No	The use of existing roads would have no effect on visual resource management in the project area.
Water Resources (except Water Quality)		Not Affected	No	The project is not expected to affect water resources.
Other Wildlife Structural or Habitat Components (Snags/CWD/Special Habitats, road densities)		Not Affected	No	Use of existing roads would have no effect on wildlife structural or habitat components.

Aquatic Conservation Strategy Review: Table 3 shows the project's effect on the 4 components of the Aquatic Conservation Strategy (ACS) (1/ Riparian Reserves, 2/ Key Watersheds, 3/ Watershed Analysis and 4/ Watershed Restoration).

<i>Components</i>	<i>Effect</i>	<i>Remarks /References</i>
Riparian Reserves	None	The proposed action entails the addition of lands and an existing road to a right-of-way agreement. There would be no effect on riparian reserves.
Key Watershed	None	The project area is not within a key watershed.
Watershed Analysis	None	The project area is covered by the <i>Upper Tualatin-Scoggins Watershed Analysis</i> (February 2000).
Watershed Restoration	None	Although the proposed action is not a component of the resource area's watershed restoration program, it would not have an adverse effect on restoration efforts.

As identified in Tables 1 and 2, the proposed action is not ground-disturbing and would have no effect on water, fisheries or vegetation resources. For that reason, the proposed action complies with the ROD/RMP in that it will not prevent attainment of the nine ACS objectives identified in the ROD/RMP (pp. 5-6).

Interdisciplinary Team:

Affected Resource	Specialist	Initial	Date
Botany/Vegetation	Kurt Heckerath	<i>KH</i>	4/28/08
Cultural Resources	Dennis Worrel	<i>DW</i>	4/28/08
Fisheries	Matt Walker	<i>MW</i>	4/28/08
Hydrology, Water Quality	Dennis Worrel	<i>DW</i>	4/28/08
Other Resources/NEPA/GIS	Bob McDonald	<i>RM</i>	4/28/08
Recreation, Visual and Rural Interface Resources	Debra Drake	<i>DD</i>	4/28/08
Soils	Dennis Worrel	<i>DW</i>	4/28/08
Wildlife	Steve Bahe	<i>SB</i>	4/28/08

EA Prepared By: Bob McDonald

Date: 5/1/08

FINDING OF NO SIGNIFICANT IMPACT and DECISION RECORD

Based upon my review of this EA (Environmental Assessment Number OR-086-08-02), I have determined that the proposed action is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. Therefore, an environmental impact statement is not needed. I have also determined that the proposed action is in conformance with the approved land use plan. It is my decision to implement the proposed action, as described in the EA.

Right to Appeal: This decision may be appealed to the Interior Board of Land Appeals in accordance with the regulations contained in 43 Code of Federal Regulations (CFR), Part 4 and Form 1842-1. Form 1842-1 is attached.

If you appeal: A public notice for this decision is scheduled to appear in the *Hillsboro Argus* newspaper on May 6, 2008. Within 30 days of this notification, a *Notice of Appeal* must be filed in writing to the office which issued this decision - Brad Keller, Field Manager, Bureau of Land Management, 4610 Third Street, Tillamook, OR, 97141. A copy of the *Notice of Appeal* must also be sent to the BLM Regional Solicitor (see Form 1842-1). The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 CFR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your *Notice of Appeal*. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Board and to the appropriate Office of the Solicitor (see 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.

Standards for Obtaining a Stay: Except as otherwise provided by law or other pertinent regulation, 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.

Statement of Reasons: Within 30 days of the filing of the *Notice of Appeal*, a complete statement of reasons why you are appealing must be filed with the Interior Board of Land Appeals (see Form 1842-1).

Implementation Date: If no appeals are filed, this decision will become effective and be implemented 30 days after the public notice of this Decision Record appears in the Hillsboro Argus newspaper.

Contact Person: For additional information concerning this decision or the appeal process, contact Bob McDonald at (503) 815-1110, Tillamook Resource Area, 4610 Third Street, Tillamook, Oregon 97141.

Authorized Official: 
for Brad Keller, Field Manager
Tillamook Resource Area

Date: 5/2/08

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 served with the decision being appealed must transmit the notice of appeal 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 notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
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- 2. WHERE TO FILE NOTICE OF APPEAL**..... **A. Brad Keller, Tillamook Resource Area Field Manager, Bureau of Land Management, 4610 Third Street, Tillamook, OR 97141**
WITH COPY TO SOLICITOR... **B. Regional Solicitor, Pacific Northwest Region, 500 NE Multnomah St. Suite 607, Portland, OR 97232**
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- 3. STATEMENT OF REASONS**..... Within 30 days after filing the Notice of Appeal, 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 Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR..... Same as 2 B.
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- 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 Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.
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- 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)).
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- 6. REQUEST FOR STAY**..... 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 *Notice of Appeal* (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 notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* 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.

Standards for Obtaining a Stay. Except as other 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.

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 2005)