UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
BURNS DISTRICT OFFICE

CATEGORICAL EXCLUSION ENVIRONMENTAL REVIEW AND APPROVAL

CX Number: DOI-BLM-OR-B060-2011-003-CX
Serial Number: OR-66371
Preparer: Holly Orr, Realty Specialist
Title of Proposed Action: Ditch and Canal Right-of-Way

Date: October 21, 2010

Applicant: Tom Davis Livestock, Inc.

Description of Proposed Action and Project Design Elements (if applicable): The proposed action is to issue a FLMPA, Title V, right-of-way (ROW) grant, OR-66371, for Tom Davis Livestock which authorizes the company to construct, operate, maintain, and terminate a ditch and canal (D/C) on public land in the Penland Road area of the Bureau of Land Management, Burns District. The D/C ROW would be used for the transportation of water for irrigation purposes. The D/C ROW would be approximately 794 feet in length; 20 feet in width; and .36-acre.

The applicant currently has a valid existing ROW for a D/C, OR-66358, which irrigates the southern part of their field to the east of Federal land. The applicant has applied to develop the new D/C ROW, OR-66371, off the original D/C ROW, OR-66358, to transport water for irrigation purposes to the northern part of their field to the east of Federal land.

The enclosed map displays the valid existing historic channel D/C ROW, OR-66358, and the proposed new D/C ROW, OR-66371. The map references two areas where culverts will be required and the diversion point from the applicant's water right certificate that allows for the irrigation of 85.2 acres in W.M., T. 35 S., R. 33 E., Section 14. The applicant will be required to install a culvert on Penland Road for the proposed D/C ROW.

There are no known mining claims on the affected lands, there are no conflicting valid existing rights-of-way, and the D/C ROW is outside of the Steens Cooperative Management and Protection Area on public domain land.

Scoping was conducted in June and July of 2010. One scoping letter was received and a summary of the issues are identified below:

Issue: Water right subject to forfeiture for past non-use.
Response: Water rights are determined by the Oregon Water Resource Department (WDR) and BLM obtained a letter dated June 14, 2010 confirming that Tom Davis Livestock, Inc. had a valid existing water right.

Issue: Acknowledgement by the BLM of a valid existing right for a D/C prior to acquisition in 1991 by the BLM without environmental review process.
Response: The water rights information from WRD and aerial photography evidence leaves little doubt that the D/C existed prior to BLM ownership of the land in 1991. The evidence indicates a pre-existing diversion on private property with the associated ditch and canal on public land. A copy of the diversion validity report is located in case file OR-66358. Acknowledgement of a prior existing right does not require an environmental review process.

Issue: Proper location of the D/C ROW.
Response: BLM Burns District Office had a Hydrologist visit the area on September 2, 2010 to determine which route, the proposed route (Alternative A) or the new route proposed in scoping (Alternative B) would be the best route. The report concluded that Alternative A was half as short as Alternative B and this would mean less disturbance and less exposed soils to water erosion. Alternative A has a gradient of 1.2% which is very similar to the historic channel while Alternative B has a gradient of about 1.7% which is outside the reference gradient range. The report recommended that stabilization of the edges of both the proposed D/C and the historic channel would promote riparian habitat and cut down on maintenance and sedimentation to downstream culverts. In addition, a flow control structure (head gate) should be placed at the point of diversion on the historic channel, should allow for 1.8 cfs and be set in concrete such that erosion at the inlet is minimized.

Legal Description (attach Location M[illegible]n): W.M., T. 35 S., R. 33 E., section 15, S[illegible] E¼NE¼.
See Attached Map

Conformance with Land Use Plan, Date Approved:

The proposed action is in conformance with the applicable LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s):

The Andrews Management Unit (AMU) RMP/ROD (BLM, August 2005), Page RMP-59; Lands and Realty Goal: Provide land, interests in land, and authorizations for public and private uses while maintaining and improving resource values and public land administration; Lands and Realty Objective 3: Meet public, private, and Federal agency needs for realty-related land use authorizations and land withdrawals including those authorizations necessary for wind, solar, biomass, and other forms of renewable energy development.

BLM Categorical Exclusion Reference (516 DM, Chapter 11): E. Realty (17) Grant of short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.

DOI Categorical Exclusion Reference (516 DM 2, Appendix 1): None

Screening for Exceptions: The following extraordinary circumstances (516 DM 2, Appendix 2) may apply to individual actions within the categorical exceptions. The indicated specialist recommends the proposed action does *not*:

CATEGORICAL EXCLUSION EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION
2.1 Have significant impacts on public health or safety.
Specialist (Print Name and Title): John Petty, Safety Manager Signature and Date: 11-23-10
Rationale: No significant affect to public health and safety.
2.2 Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; 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); flood plains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
Migratory Birds Specialist (Print Name and Title): Matt Obradovich, Wildlife Biologist Signature and Date: 11/22/10
Rationale: Migratory birds would not be affected by this action even though there is new disturbance on public lands. The amount of area disturbed with the new irrigation ditch is small, approximately half the width of the ROW (0.18 acres) which would not reduce migratory bird habitat. The construction of this ditch should occur during the fall or winter months which would be before migratory birds return and would not cause disturbances to nesting birds.
Historic and Cultural Resources Specialist (Print Name and Title): Scott Thomas, Archeologist Signature and Date: 11/9/2010
Rationale: Historic and Cultural Resources would not be affected by this action. An inventory of the project area was completed and no cultural materials were noted in the project area.
Areas of Critical Environmental Concern/Research Natural Areas Specialist (Print Name and Title): Doug Linn, Botanist Signature and Date: 11/9/10
Rationale: No RNAs or ACECs will be affected by this proposal.

Water Resources/Flood Plains
Specialist (Print Name and Title): Daryl Bingham, Riparian Specialist

Signature and Date: 28 October 2010

Rationale: Water resources/ flood plains would not be affected by the Proposed Action

Soils, Biological Soil Crust, Prime Farmlands
Specialist (Print Name and Title): Doug Linn, Botanist

Signature and Date: 11-09-10

Rationale: No significant impacts are foreseen for these resources as a result of this proposal.

Recreation/ Visual Resources
Specialist (Print Name and Title): Mike Kelly, Outdoor Recreation Planner

Signature and Date: 11-9-10

Rationale: No significant impacts are foreseen for these resources as a result of this proposal.
Recreation: Access will still be available for recreation pursuits.
Visual Resources: This area is VRM 2 (largely retain the existing character of the landscape.) Canals already exist in this area of public and private lands and due to the low profile of the canal it will not negatively affect the visual resource.

Wilderness/Wild and Scenic River Resources
Specialist (Print Name and Title): Eric Haakenson, Wilderness Specialist

Signature and Date: 11/29/10

Rationale: The proposed project is not within any wilderness, WSR, WSA, or Lands with Wilderness Characteristics.

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

Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator

Signature and Date: 11-15-10

Rationale: Scoping did not reveal any highly controversial environmental effects or unresolved conflicts concerning alternative uses of available resources. In addition, a hydrology report concluded that the shorter route would have less disturbance, less exposed soils to water erosion and has a gradient of 1.2% which is very similar to the historic channel.

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

Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator

Signature and Date: 11-15-10

Rationale: Scoping did not reveal any highly uncertain or potentially significant environmental effects or involve unique or unknown environmental risks. The hydrology report concluded that the shorter route would have less disturbance, less exposed soils to water erosion and has a gradient of 1.2% which is very similar to the historic channel.

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

Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator

Signature and Date: 11-15-10

Rationale: Implementation of the proposal would not set a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects. Issuance of ROWs for D/C is a common BLM practice. The shorter route would have less disturbance, less exposed soils to water erosion and has a gradient of 1.2% which is very similar to the historic channel. In addition, no significant effects were identified.

2.6 Have a direct relationship to ' r actions with individually insignificant b umulatively significant environmental effects.

Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator

Signature and Date: Rhonda Karges 11-15-10

Rationale: There are no known individually insignificant or cumulatively significant environmental effects. No significant effects were identified and no significant cumulative effects were identified during scoping.

2.7 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.

Specialist (Print Name and Title): Scott Thomas, Archeologist

Signature and Date: Scott Thomas 11-9-2010

Rationale: No eligible or listed National Register sites would be affected by this action.

2.8 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.

Endangered or Threatened Species-Fauna

Specialist (Print Name and Title): Matt Obradovich, Wildlife Biologist

Signature and Date: Matthew J Obradovich 11/22/10

Rationale: There are no federally Threatened, Endangered or proposed to be listed fauna species known to occur in the areas of these easements. Therefore there would be no impacts.

Endangered or Threatened Species-Aquatic

Specialist (Print Name and Title): Daryl Bingham, Riparian Specialist

Signature and Date: 28 October 2010

Rationale: There are no known Threatened or Endangered aquatic species in the project area.

Endangered or Threatened Species-Flora

Specialist (Print Name and Title): Doug Linn, Botanist

Signature and Date: Doug Linn 11-9-10

Rationale: No T&E species of Flora or associated Critical Habitat are present.

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

Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator

Signature and Date: Rhonda Karges 11-15-10

Rationale: No known laws or requirements for protection of the environment would be violated.

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

Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator

Signature and Date: Rhonda Karges 11-15-10

Rationale: Implementation of the proposal would not result in a disproportionately adverse effect on minority or economically disadvantaged populations as such populations do not occur in or near the project area.

2.11 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).

Specialist (Print Name and Title): Scott Thomas, Archeologist

Signature and Date: Scott Thomas 11-9-2010

Rationale: Access to and ceremor use of Indian sacred sites would not be af ed by this action.
2.12 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).
Specialist (Print Name and Title): Lesley Richman, Weed Specialist Signature and Date: Lesley Richman 11/9/10
Rationale: Noxious weeds are known to be present in or in close proximity to this area. Treatments are on-going. The weeds are not present in sufficient quantity to be considered a significant impact at this time.

Additional review (As determined by the Authorized Officer): None

RMP conformance and CX review confirmation: I have reviewed the CX and the CX conforms to the RMP.

Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator

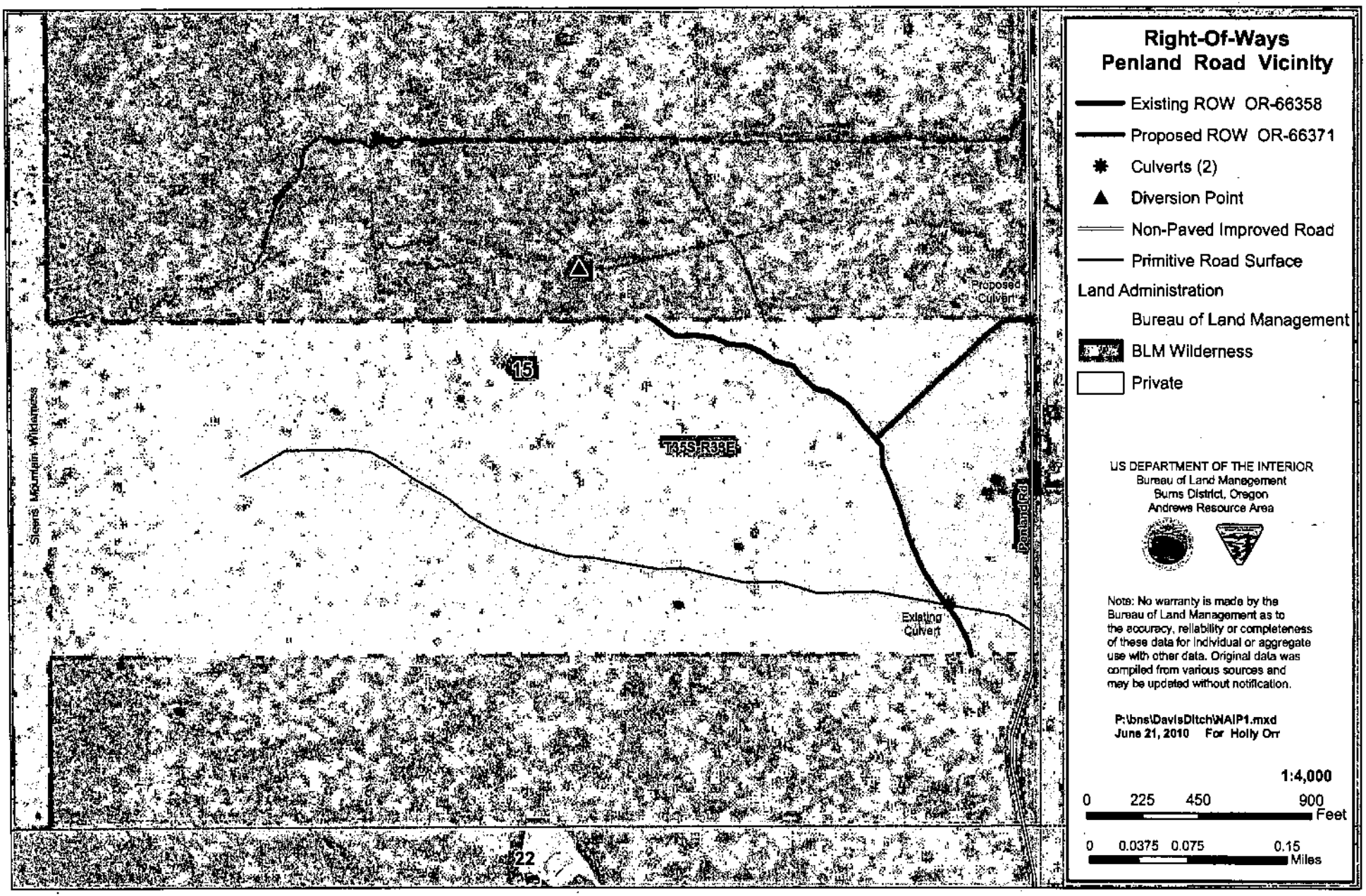
Signature: Rhonda Karges Date: 11-15-10

Management Determination: Based upon review of this proposal, I have determined the Proposed Action is in conformance with the LUP, qualifies as a categorical exclusion and does not require further NEPA analysis.

Authorized Officer (Print Name and Title): Joan Suther, Andrews/Steens Field Manager

Signature: Joan M. Suther Date: 11/30/10

Note: A decision letter and Bureau of Land Management ROW Grant/Temporary Use Permit, Form 2800-14, are the decision documents that will be prepared to authorize the action covered by this Categorical Exclusion following Lands and Realty specific guidance.


Right-Of-Ways
Penland Road Vicinity
Existing ROW OR-66358
Proposed ROW OR-66371
Culverts (2)
Diversion Point
Non-Paved Improved Road
Primitive Road Surface
Land Administration
Bureau of Land Management
BLM Wilderness
Private
US DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Burns District, Oregon
Andrews Resource Area
Note: No warranty is made by the Bureau of Land Management as to the accuracy, reliability or completeness of these data for individual or aggregate use with other data. Original data was compiled from various sources and may be updated without notification.
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June 21, 2010 For Holly Orr
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0 0.0375 0.075 0.15 Miles
N
15
T45S R33E
Proposed Culvert
Existing Culvert
Penland Rd
Steens Mountain Wilderness
22