

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

CATEGORICAL EXCLUSION ENVIRONMENTAL REVIEW AND APPROVAL

CX Number: DOI-BLM-OR-B050-2010-037-CX
File Code (Project/Serial Number): OR-66120
Preparer: Skip Renschler, Realty Specialist
Title of Proposed Action: Mortimer Canyon Road Easement

Date: September 3, 2010
Applicant: BLM Initiated Action

Description of Proposed Action and Project Design Elements (if applicable):

The proposed action is to acquire an exclusive, public road easement under the authority of Section 205 of FLPMA from private individuals. The purpose and need for the easement would be to provide documented, legal access across private property on the Mortimer Road, BLM Road No. 6246-O-00. The easement would provide for administrative and public access from the Cow Creek County Road to public lands north of Highway 20 between Rattlesnake Creek and Cow Creek. Legal public access on this portion of the road is critical for public wood cutting, hunting and other recreational opportunities. The Mortimer road is a developed road constructed from native soils and has been in existence for many years. It has tacitly been used by the public for years and a public prescriptive right of access under the Oregon statutes may be presumed. However, no formal assertion, acknowledgement or adjudication of such a right has ever occurred and, without a documented easement, public access on the road is at risk. Therefore, BLM is proposing to acquire the easement to ensure that public access is available into the future.

As consideration for the easement the private landowners have requested and BLM is proposing to install, own and maintain two cattleguards on the Mortimer Road on public lands north of the private property and the easement location. The cattleguards would replace existing wire gates where two fences cross the Mortimer Road. The purpose and need for the cattleguards is to eliminate the possibility that gates are left open resulting in livestock straying from the BLM grazing allotment to the north onto private lands to the south and vice versa. Cattleguards would also provide more convenient and efficient access to the public and for administrative purposes.

Legal Description (attach Location Map):

Easement: W.M.,T. 22 S., R. 32½ E., sec. 27, SW¼NE¼, SE¼NW¼, NW¼SE¼.
North Cattleguard: W.M.,T. 22 S., R. 32½ E., sec. 22, NE¼SW¼.
South Cattleguard: W.M.,T. 22 S., R. 32½ E., sec. 27, NE¼NW¼.

B. Conformance with Land Use Plan (LUP) (name): Three Rivers Resource Management Plan
Date Approved/Amended: August 5, 1992

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) (*objectives, terms, and conditions*): LR4.1, page 2-188 - Acquire and maintain legal public and administrative access to public land consistent with other resource values.

BLM Categorical Exclusion Reference (516 DM, Chapter 11):

11.9E.(16) – 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.

11.9G.(2)-Installation of routine signs, markers, culverts, ditches, waterbars, gates or cattleguards on/or adjacent to roads and trails identified in any land use or transportation plan, or eligible for incorporation in such plan.

DOI Categorical Exclusion Reference (516 DM 2, Appendix 1):

1.7- Routine and continuing government business including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (e.g., limited size and magnitude or short term effects).

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): <i>[Signature]</i>	
Signature and Date: <i>[Signature]</i> 9/7/10	
Rationale: The proposed action would have limited effects on 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.
<u>Migratory Birds</u>	
Specialist (Print Name and Title): Jason Brewer, Wildlife Biologist	
Signature and Date: <i>Jason Brewer</i> 9-7-2010	
Rationale: Granting of an easement is an administrative action and would have no impact to migratory birds. Installation and maintenance of cattle guards may flush birds from the immediate area, but effects would be indirect and last only as long as the disturbance (generally less than a day). Installation of cattleguards may reduce the disturbance at gates by eliminating the need for vehicles to stop and travelers to exit vehicles in order to open and close gates.	
<u>Historic and Cultural Resources</u>	
Specialist (Print Name and Title): Scott Thomas, District Archaeologist	
Signature and Date: <i>Scott Thomas</i> 9-7-2010	
Rationale: The proposal would have no effects to historic or cultural resources because little new surface disturbance would occur as a result of the proposed action.	
<u>Areas of Critical Environmental Concern/Research Natural Areas</u>	
Specialist (Print Name and Title): Douglas Linn - NRS Plant Conservationist	
Signature and Date: <i>Douglas Linn</i> 9-7-10	
Rationale: No RNAs or ACECs would be affected as a result of this proposal.	
<u>Water Resources/Flood Plains</u>	
Specialist (Print Name and Title): Lisa Grant, <i>Natural Resource Specialist - Riparian</i> Range Management Specialist	
Signature and Date: <i>Lisa Grant</i> 9-7-10	
Rationale: The proposed action would have no effect to water resources or flood plains.	
<u>Soils, Biological Soil Crust, Prime Farmlands</u>	
Specialist (Print Name and Title): Douglas Linn - NRS Plant Conservationist	
Signature and Date: <i>Douglas Linn</i> 9-7-10	
Rationale: No significant impacts to these resources would result from this proposal.	
<u>Recreation/ Visual Resources</u>	
Specialist (Print Name and Title): John Bethra, Outdoor Recreation Planner	
Signature and Date: <i>John P. Bethra</i> 9-7-2010	
Rationale: The section of the Mortimer Road, BLM Road No. 6246-O-00 for the proposed easement is in VRM Class IV. Management activities may dominate the view and be the major focus of viewer attention. Legal public access on this portion of the road would benefit hunting and other recreational opportunities.	
<u>Wilderness/Wild and Scenic River Resources</u>	
Specialist (Print Name and Title): Eric Haakenson, Wilderness Specialist	
Signature and Date: <i>Eric Haakenson</i> 9-7-2010	
Rationale: There are no Wilderness, Wilderness Study Areas, Wild and Scenic Rivers or lands with wilderness characteristics affected by the proposal.	
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, District Planning & Environmental Coordinator	
Signature and Date: <i>Rhonda Karges</i> 9/7/10	
Rationale: There are no known highly controversial environmental effects or unresolved conflicts concerning alternative uses of available resources. The road exists and implementation of the proposal would merely provide legal access for the public. Installation of cattleguards in an existing road is a routine BLM action.	
2.4	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

Specialist (Print Name and Title): Rhonda Karges, District Planning & Environmental Coordinator Signature and Date: <i>Rhonda Karges 9/7/10</i>
Rationale: There are no known uncertain or potentially significant environmental effects or unique or unknown environmental risks. The road exists and implementation of the proposal would merely provide legal access for the public. Installation of cattleguards in an existing road is a routine BLM action.
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, District Planning & Environmental Coordinator Signature and Date: <i>Rhonda Karges 9/7/10</i>
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. The road exists and implementation of the proposal would merely provide legal access for the public. Installation of cattleguards in an existing road is a routine BLM action.
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
Specialist (Print Name and Title): Rhonda Karges, District Planning & Environmental Coordinator Signature and Date: <i>Rhonda Karges 9/7/10</i>
Rationale: There are no known individually insignificant but cumulatively significant environmental effects. The road exists and implementation of the proposal would merely provide legal access for the public. Installation of cattleguards in an existing road is a routine BLM action. Continued use of the existing road is not expected to add any affects beyond those already occurring.
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, District Archaeologist Signature and Date: <i>Scott Thomas 9/7/2010</i>
Rationale: There are no properties listed or eligible for listing on the National Register of Historic Places occurring within the project area.
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): Jason Brewer, Wildlife Biologist Signature and Date: <i>Jason Brewer 9-7-2010</i>
Rationale: There are no federally endangered or threatened species or designated Critical Habitat present in the area. Greater sage-grouse are a candidate species that are present in the project area, but the disturbance from the installation and maintenance of cattleguards at previously disturbed sites would have no impact to this species due to the short duration of the disturbance (generally less than a day). Installation of cattleguards may reduce the disturbance at gates by eliminating the need for vehicles to stop and travelers to exit vehicles in order to open and close gates.
Endangered or Threatened Species-Aquatic Specialist (Print Name and Title): Lisa Grant, Range Management Specialist Signature and Date: <i>Lisa Grant 9-7-10</i>
Rationale: There are no known Endangered or Threatened Species - Aquatic in the area of the proposed action.
Endangered or Threatened Species-Flora Specialist (Print Name and Title): Douglas Linn, NRS Plant Conservationist Signature and Date: <i>Douglas Linn 9-7-10</i>
Rationale: No Threatened or Endangered 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, District Planning & Environmental Coordinator Signature and Date: <i>Rhonda Karges 9/7/10</i>
Rationale: No known laws or requirements for protection of the environment would be violated. The road exists and implementation of the proposal would merely provide legal access for the public. Installation of cattleguards in an existing road is a routine BLM action.
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, District Planning & Environmental Coordinator Signature and Date: <i>Rhonda Karges 9/7/10</i>
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, District Archaeologist Signature and Date: <i>Scott Thomas 9-7-2010</i>

Rationale: The proposal would improve access to Federal lands by Indian religious practitioners.
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, District Weed Coordinator
Signature and Date: <i>Lesley Richman</i> 9/7/10
Rationale: Noxious weeds are known to be present in and 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):

RMP conformance and CX review confirmation.

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

Signature: *Rhonda Karges* Date: 9/7/10

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): Rick Roy, Three Rivers Resource Area Field Manager

Signature: *Rick Roy* Date: 9/8/2010

Decision: It is my decision to implement the Proposed Action with Project Design Elements (if applicable) as described above.

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations contained in 43 Code of Federal Regulations (CFR), Part 4 and Form 1842-1. If an appeal is filed, your notice of appeal should be mailed to the Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738, within 30 days of receipt of the decision. The appellant has the burden of showing the decision appealed is in error.

A copy of the appeal, statement of reasons, and all other supporting documents should also be sent to the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, Oregon 97205. If the notice of appeal did not include a statement of reasons for the appeal, it must be sent to the Interior Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. It is suggested appeals be sent certified mail, return receipt requested.

Request for Stay

Should you wish to file a motion for stay pending the outcome of an appeal of this decision, you must show sufficient justification based on the following standards under 43 CFR 4.21:

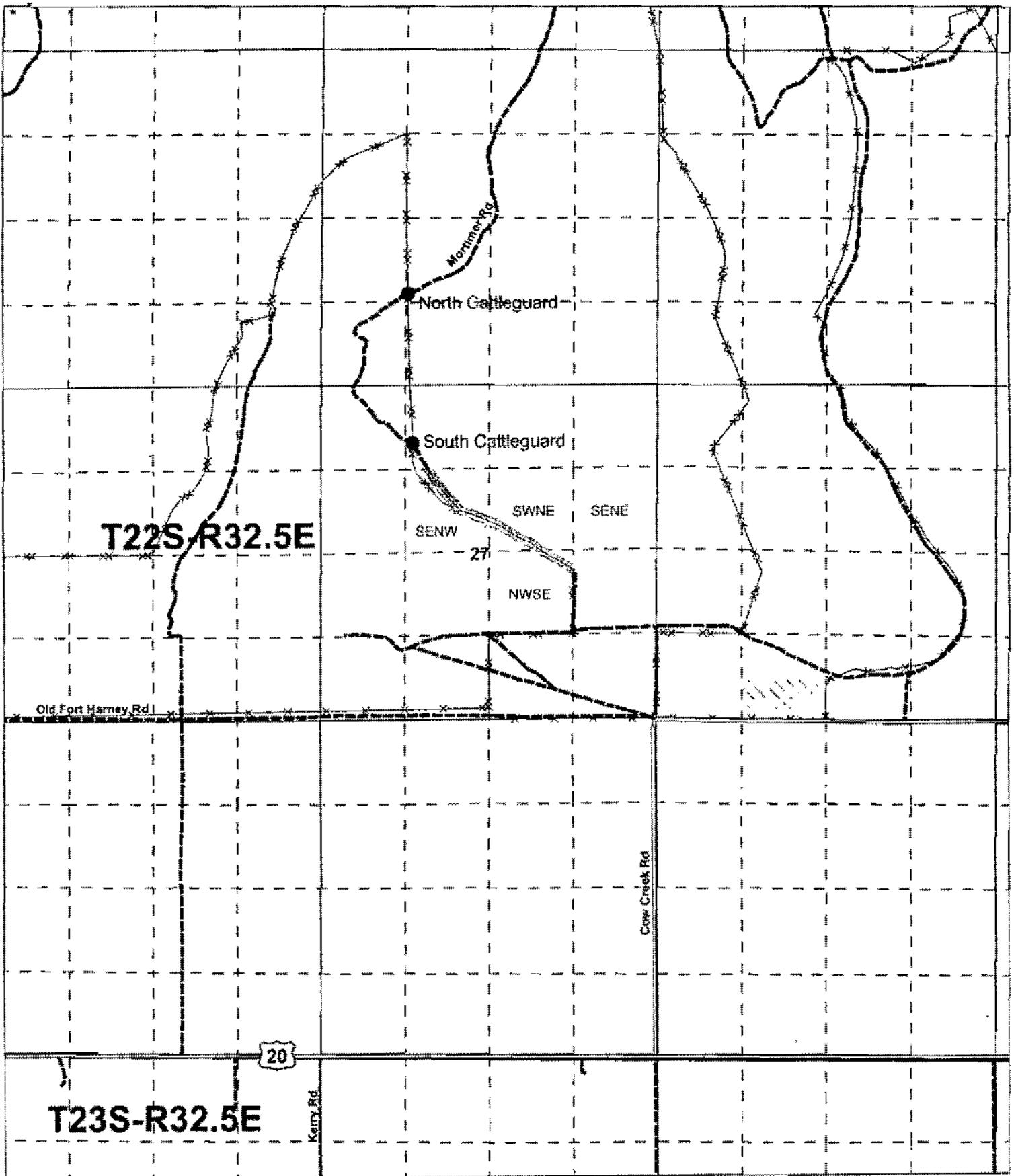
- The relative harm to the parties if the stay is granted or denied.
- The likelihood of the appellant's success on the merits.
- The likelihood of immediate and irreparable harm if the stay is not granted.
- Whether or not the public interest favors granting the stay.

As noted above, the motion for stay must be filed in the office of the authorized officer.

in Three Rivers Resource Area Field Manager

Rick Roy
 Title and Signature of Authorized Officer

9/8/2010
 Date



Jack Smith Road Easement OR-66120 Site Map

Legend

- | | | | |
|--|------------------------------|--|---------------------------|
| | US Highway 20 | | Ownership |
| | County Roads | | Bureau of Land Management |
| | Other Roads | | Private |
| | BLM Grazing Allotment Fences | | State |
| | Proposed Road Easement | | |

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. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.