

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

CATEGORICAL EXCLUSION ENVIRONMENTAL REVIEW AND APPROVAL

CX Number: DOI-BLM-OR-B050-2012-0003-CX

File Code: 2800

Preparer: Tara McLain, Realty Specialist

Title of Proposed Action: Right-of-Way(ROW)

Date: October 18, 2011

Serial Number: OR-66879

Applicant:

Description of Proposed Action: The proposed action is to grant a right-of-way (ROW) to _____ under the authority of Title V, Federal Land Policy and Management Act, and the regulations at 43 CFR 2800 to authorize an existing road to a private residence. The grant would provide the _____ with the right to construct, operate, maintain, and terminate the ROW totaling 3.3 acres. This is an existing road that the _____ currently use on a casual-use basis. Under the ROW the _____ would install a culvert at the crossing of East Creek, a non-fish bearing, intermittent stream. The culvert would consist of 2, 24" diameter culverts at the creek crossing that currently exists in the road. Approximately 120 yards of fill would be deposited in the road prior to the creek, around the culverts and after the creek. Communication with Department of State Lands provides that the need for a permit is waived if less than 50 cubic yards of fill is deposited in the stream channel from the high-water lines. Measurements were sent to the Department of State Lands and they confirmed that a permit was not necessary. If necessary the _____ would have permission to deposit more fill in low spots of the road in the future. The current road width is roughly 15' +/-; all road construction would remain in that width. Any ground disturbance outside of the roadbed would be reseeded with a BLM-approved seed mix. All earthmoving equipment would be washed down to remove mud and vegetative debris prior to use on the road. The ROW would be 30', 15' from centerline on each side, to allow for work around the road; the road width would not change from the existing width.

The road use will be during spring, summer and fall. Vehicles using the road will primarily be personal vehicles and recreational vehicles.

The ROW area is within the Three Rivers Resource Area. There are no valid and existing rights encumbering the lands surrounding the ROW area for road access. There are no mining claims or rights of third parties or other title factors that would prohibit the grant of this ROW. It is located northeast of Hines, Oregon and is in grazing allotment #4098. The proposed right-of-way would not affect authorized livestock grazing within allotment #4098.

The existing location of the road is described on the attached map, Exhibit A.

Legal Description (attach Location Map, Exhibit A): W.M., T. 20 S., R. 32 E., section 07, SE $\frac{1}{4}$ /NE $\frac{1}{4}$.

Conformance with Land Use Plan (LUP) (name): The Three Rivers Resource Management Plan and Record of Decision (RMP), dated September 1992, allow public access to public land. Lands and Realty Objective #2: Meet public needs for use authorizations such as Rights-of-Way, leases and permits. Lands and Realty Objective #3: Eliminate unauthorized use of public lands.

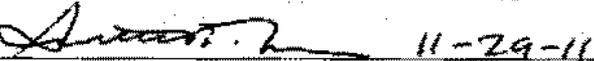
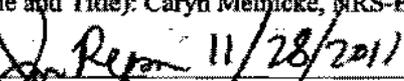
BLM Categorical Exclusion Reference (516 DM, Chapter 11.9):

E.16- Rights-of-Way for the use of existing facilities, improvements, or sites for the same or similar purposes.

G.2-Installation of routine signs, markers, culverts, ditches, waterbars, gates or cattleguards on/or adjacent to roads.

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

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 Officer | |
| Signature and Date:  11/30/11 | |
| Rationale: No significant impacts on public health or 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:  11/29/2011 | |
| Rationale: Installing the culverts would cause temporary disturbance (e.g. flushing, avoidance), but would affect a very small area (less than a tenth of an acre). Birds would return to the area shortly after the installation is completed. Maintenance work on the road would be limited to a previously disturbed area (existing road), and also occur over a relatively short period (a few days). Birds in the immediate vicinity of the road may flush as equipment passes, but effects would be temporary and birds would likely return as soon as maintenance ceases. Potential foraging habitat directly adjacent to roads may be affected, but the total area potentially impacted would be minimal relative to the habitat available beyond the road edges. Birds may forage in the road or along the edges of the road, but few are likely to nest in this area and maintenance activities would not affect populations. | |
| <u>Historic and Cultural Resources</u> | |
| Specialist (Print Name and Title): Scott Thomas, District Archaeologist | |
| Signature and Date:  11-29-11 | |
| Rationale: No cultural or historic resources would be affected by this proposed project. | |
| <u>Areas of Critical Environmental Concern/Research Natural Areas</u> | |
| Specialist (Print Name and Title): Caryn Meinicke, NRS-Botany | |
| Signature and Date:  11/28/2011 | |
| Rationale: There are no ACEC/RNAs within the proposed ROW. | |
| <u>Water Resources/Flood Plains</u> | |
| Specialist (Print Name and Title): Lisa Grant/Lindsay Davies, Fish Biologist | |
| Signature and Date:  11/28/2011 | |
| Rationale: DSL has stated that no permit is necessary for the proposed actions. East Creek is non-fish bearing so culverts will not affect fish passage. | |
| <u>Soils, Biological Soil Crust, Prime Farmlands</u> | |
| Specialist (Print Name and Title): Caryn Meinicke, NRS-Botany | |
| Signature and Date:  11/28/2011 | |
| Rationale: There are no Prime Farmlands within the proposed ROW. All road construction activities will take place within the existing roadbed therefore impacts to soils and BSCs will be negligible. If ground disturbing activities occur outside the existing roadbed, impacts will be minimized by using rubber tired vehicles and/or heavy equipment. Impacts to soils will be short term, 1-3 growing seasons with the reestablishment of vegetation. Because of the nature of BSCs, recovery will take longer, 2 years or longer, depending on the type of soil crust. | |
| <u>Visual Resources</u> | |
| Specialist (Print Name and Title): John Bethea, Outdoor Recreation Planner | |
| Signature and Date:  11-23-11 | |
| Rationale: This area is in VRM Class 2 and the intention is to largely retain the existing character of the landscape. This action on an existing road will not affect the character of the landscape. | |
| <u>Recreation</u> | |
| Specialist (Print Name and Title): John Bethea, Outdoor Recreation Planner | |

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| Signature and Date: | |
| Rationale: No effects to recreation are anticipated. | |
| <u>Wilderness/Wild and Scenic River Resources</u> | |
| Specialist (Print Name and Title): Eric Haakenson, Wilderness Specialist | |
| Signature and Date: | <i>Eric Haakenson</i> 11-23-11 |
| Rationale: There is no wilderness, WSA, WSR or LWC within the project area. | |
| 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: | <i>Rhonda Karges</i> 11-28-11 |
| Rationale: There are no known highly controversial environmental effects or unresolved conflicts concerning alternatives uses of available resources. The road is an existing feature on the landscape. A ROW merely authorizes continued, legal use of this road. The culvert installation is in compliance with Oregon Department of State Lands. | |
| 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: | <i>Rhonda Karges</i> 11-28-11 |
| Rationale: No known highly uncertain or potentially significant environmental effects or unique or unknown environmental risks exist. The road is an existing feature on the landscape. A ROW merely authorizes continued, legal use of this road. The culvert installation is in compliance with Oregon Department of State Lands. | |
| 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: | <i>Rhonda Karges</i> 11-28-11 |
| Rationale: Implementation would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects. The BLM routinely grants ROWs and installs culverts/ditches. | |
| 2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. | |
| Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator | |
| Signature and Date: | <i>Rhonda Karges</i> 11-28-11 |
| Rationale: No known direct relationship to other actions with individually insignificant but cumulatively significant environmental effects exists. The road is an existing feature on the landscape. A ROW merely authorizes continued, legal use of this road. The culvert installation is in compliance with Oregon Department of State Lands. | |
| 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</i> 11-29-11 |
| Rationale: No National Register eligible or nominated properties would be affected by this proposed project. | |
| 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. | |
| <u>Endangered or Threatened Species-Fauna</u> | |
| Specialist (Print Name and Title): Jason Brewer, Wildlife Biologist | |
| Signature and Date: | <i>Jason Brewer</i> 11/29/2011 |
| Rationale: There are no endangered or threatened species or designated Critical Habitat in the ROW area, and the proposed actions would not alter the quality or extent of the existing habitat. | |
| <u>Endangered or Threatened Species-Aquatic</u> | |
| Specialist (Print Name and Title): Lindsay Davies/Lisa Grant, Fish Biologist | |
| Signature and Date: | <i>Lindsay Davies</i> 11/28/2011 |
| Rationale: There are no endangered or threatened aquatic species or designated Critical Habitat in the ROW area. | |

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| <p>Endangered or Threatened Species-Flora Specialist (Print Name and Title): Caryn J. Jinicke, NRS-Botany</p> |
| <p>Signature and Date: <u>J. Jinicke 11/28/2011</u></p> |
| <p>Rationale: There are no documented T & E or Special Status flora species or critical habitat within the proposed ROW.</p> |
| <p>2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.</p> |
| <p>Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator</p> |
| <p>Signature and Date: <u>Rhonda Karges 11-28-11</u></p> |
| <p>Rationale: No known law or requirement imposed for the protection of the environment would be violated. Implementation is in conformance with Department of State lands regulations.</p> |
| <p>2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).</p> |
| <p>Specialist (Print Name and Title): Rhonda Karges, Planning and Environmental Coordinator</p> |
| <p>Signature and Date: <u>Rhonda Karges 11-28-11</u></p> |
| <p>Rationale: Implementation 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.</p> |
| <p>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).</p> |
| <p>Specialist (Print Name and Title): Scott Thomas, District Archaeologist</p> |
| <p>Signature and Date: <u>Scott Thomas 11-29-11</u></p> |
| <p>Rationale: Sacred site access and/or integrity would not be affected by this proposed project.</p> |
| <p>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).</p> |
| <p>Specialist (Print Name and Title): Lesley Richman, District Weed Coordinator</p> |
| <p>Signature and Date: <u>Lesley Richman 11/28/2011</u></p> |
| <p>Rationale: Noxious weeds are known to be present in close proximity to this area. Treatments are on-going. They are not present in sufficient quantity to be considered a significant impact at this time.</p> |

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

RMP conformance and CX review confirmation:

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

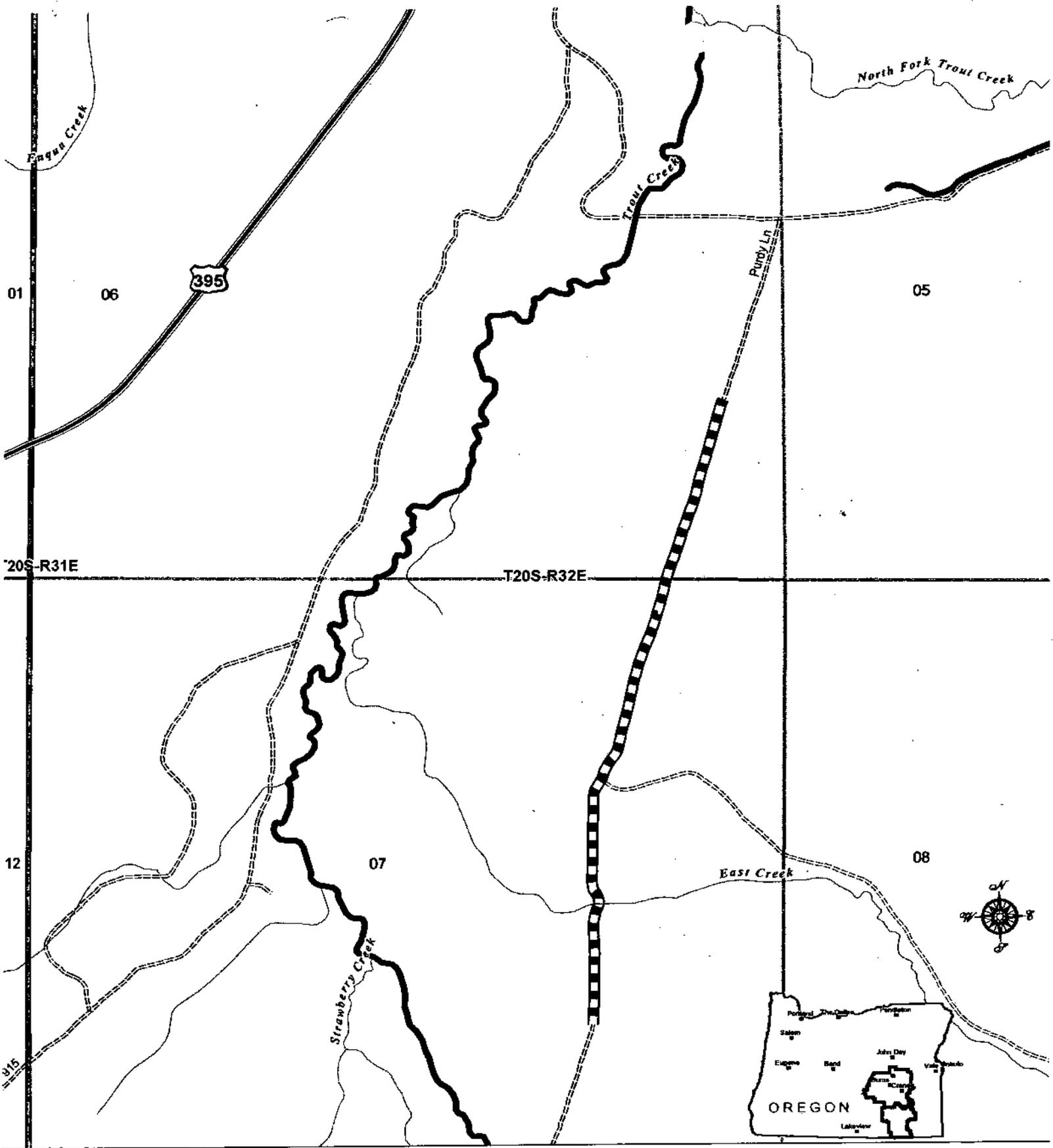
Signature and Date: Rhonda Karges 11-28-11

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): Richard Roy, Three Rivers Resource Area Field Manager

Signature and Date: Richard Roy 11/30/2011

Note: A decision letter and Bureau of Land Management Right-of-Way 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.



OR-66879
Right-of-Way
 OR-66879
 Perennial Streams
 Intermittent Streams
 ROW = Non-Paved Improved Road
 Natural/Unknown Road Surface
 BLM Private



US DEPARTMENT OF THE INTERIOR
 Bureau of Land Management
 Burns District, Oregon



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.

2800 (ORB050)
OR-66879



CERTIFIED MAIL – 7010 1870 0002 7993 3997
RETURN RECEIPT REQUESTED

DEC 19 2011

Decision

Right-of-Way Application
Serial No. OR-66879

Right-of-Way Grant OR-66879 Issued
Rental Determined
Monitoring Fee Determined

Dear Mr. and Mrs.

Enclosed is a copy of your amended Right-of-Way (ROW) grant, serial number OR-37537, which allows the use of public land for a county road. It was approved by the Bureau of Land Management (BLM) on December 16, 2011.

The advance rental for the ROW is determined to be \$537.90 for the period from January 1, 2012 to December 31, 2021. The BLM has received your advance rental for this period. All subsequent rental billings will be due at the beginning of the calendar year starting January 1, 2022. Future billings will be based on the rent schedule in effect at that time.

The BLM has determined there will be no monitoring fee for this ROW.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) 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 Interior Board of Land Appeals 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.

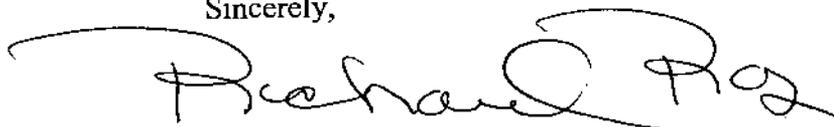
Standards for Obtaining a Stay

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 or not the public interest favors granting the stay.

If you have any questions, please contact Tara McLain, Realty Specialist, at (541) 573-4462.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Roy". The signature is fluid and cursive, with a large initial "R" and "R".

Richard Roy
Three Rivers Resource Area Field Manager

1 Enclosure

1 - BLM Form 1842-1