

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

CATEGORICAL EXCLUSION ENVIRONMENTAL REVIEW AND APPROVAL

CX Number: DOI-BLM-OR-B070-2011-0025-CX
File Code (Project/Serial Number): 715651
Preparer: Autumn Toelle

Date: April 11, 2011
Applicant: N/A

Title of Proposed Action: Emergency Mistake Lake (Ruby Fenced Lake and Waterhole) Reservoir/Ditch Maintenance

Description of Proposed Action and Project Design Elements (if applicable): The proposed action is to conduct emergency reservoir maintenance, and repair of the associated man-made ditch, on Mistake Lake (aka Ruby Fenced Lake and Waterhole). The immediate proposed action will consist of repairing the ditch, where it has failed, to a condition that will allow it to channel water into Frasier Lake. Currently, the ditch has failed resulting in overflow water from Mistake Lake flowing over land, possibly removing top soil, and threatening to flood a private land owner in the bottom of the canyon. Future action may consist of the installation of a water control device at the ditch junction where the water would be able to either fill Mistake Lake, or bypass it and travel to Frasier Lake.

Legal Description (attach Location Map): T30S., R32E., Section 14, NE1/4

B. Conformance with Land Use Plan (LUP) (name): 2005 Steens Mountain Cooperative Management and Protection Area Record of Decisions and Resource Management Plans

Date Approved/Amended: 2005

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*):

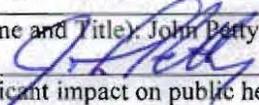
Projects and maintenance of existing and newly-constructed facilities will occur; however, the level of maintenance could vary based on annual funding. Normally, routine operation and maintenance actions are categorically excluded from NEPA analysis... Such activities could include, but are not limited to, routine maintenance of existing...water control structures...reservoirs...waterholes... These types of actions are part of implementation of the RMP and should not require further analysis to implement" RMP-15;

"Existing and future water developments will be maintained or implemented when determined to contribute to beneficial uses or to facilitate management, or protection of offsite values, such as water quality and riparian resources through distribution of wildlife, livestock, or wild horses" RMP-20,

BLM Categorical Exclusion Reference (516 DM, Chapter 11): 11.9 - I. Emergency Stabilization - Planned actions in response to... floods... that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition as a result of the event.

DOI Categorical Exclusion Reference (516 DM 2, Appendix 1): 1.7 - Routine and continuing government business, including such things as supervision, administration, operations, maintenance 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):	John Petty, Safety Officer
Signature and Date:	 4/11/11
Rationale:	No significant impact 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.
Migratory Birds	
Specialist (Print Name and Title):	Matt Obradovich, Wildlife Specialist
Signature and Date:	 4/11/2011

Rationale: *Repairs and associated disturbance to migratory birds will be at short duration and should not affect any nesting birds.*

Historic and Cultural Resources
Specialist (Print Name and Title): Scott Thomas, District Archeologist
Signature and Date: *Scott Thomas 4-11-11*
Rationale: No cultural resources will be affected by this project.

Areas of Critical Environmental Concern/Research Natural Areas
Specialist (Print Name and Title): Autumn Toelle, Rangeland Management Specialist
Signature and Date: *Autumn Toelle 4/11/11*
Rationale: No impacts to RNAs or ACECs will occur as a result of this proposal.

Water Resources/Flood Plains
Specialist (Print Name and Title): Daryl Bingham, Natural Resource Specialist
Signature and Date: *DB* **11 APRIL 2011**
Rationale: **NO IMPACTS TO WATER RESOURCES OR FLOOD PLAINS**

Soils, Biological Soil Crust, Prime Farmlands
Specialist (Print Name and Title): Doug Linn, Botanist
Signature and Date: *Doug Linn / Camp Meisicke 4-11-11*
Rationale: No significant impacts to these resources will occur as a result of this proposal.

Recreation/ Visual Resources
Specialist (Print Name and Title): John Belnea, Recreation Planner
Signature and Date: *John P. Belnea 4-11-11*
Rationale: No significant impacts to recreation or visual resources will occur as a result of this project. The removal of the fence will benefit recreation and visual resources.

Wilderness/Wild and Scenic River Resources
Specialist (Print Name and Title): Eric Haakenson, Wilderness Specialist
Signature and Date: *Eric Haakenson 4/11/11*
Rationale: The proposed project is not in a Wilderness, Wilderness Study Area, Citizen Proposed Wilderness Study Area, and there are no Wild and Scenic Rivers in 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: *Rhonda Karges 4/12/11*
Rationale: There are no known highly controversial environmental effects or unresolved conflicts concerning alternative uses of available resources.

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: *Rhonda Karges 4/12/11*
Rationale: There are no known highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.

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: *Rhonda Karges 4/12/11*
Rationale: No precedent for future actions or decision in principle about future actions with potentially significant environmental effects would occur as removal of fences is a common practice in rangeland management.

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: *Rhonda Karges 4/12/11*
Rationale: There are no known direct relationships to other actions with individually insignificant but cumulatively significant environmental effects.

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 Archeologist

Signature and Date: *Scott Thomas* 4-11-11

Rationale: No National Register eligible or listed properties are located within the proposed 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): Matt Obradovich, Wildlife Specialist

Signature and Date: *Matt Obradovich* 4/14/2011

Rationale: There are no known federally listed threatened or endangered species or Critical Habitat at or near the project area.

Endangered or Threatened Species-Aquatic

Specialist (Print Name and Title): Daryl Bingham, Natural Resource Specialist

Signature and Date: *Daryl Bingham* 11 APRIL 2011

Rationale: There are no known federally listed threatened or endangered fish or associated Critical Habitat is present.

Endangered or Threatened Species-Flora

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

Signature and Date: *Doug Linn* 4-11-11

Rationale: No federally listed threatened or endangered species of flora, or Critical Habitat at or near the project area.

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* 4/12/11

Rationale: No known law or requirement imposed for the 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* 4/12/11

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.

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 Archeologist

Signature and Date: *Scott Thomas* 4-11-11

Rationale: No sacred sites or access to sacred sites will be affected by this fence removal.

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, NRS - Weeds

Signature and Date: *Lesley Richman* 4/12/11

Rationale: Noxious weeds are not known to be present in, or in close proximity to, this area. Weeds in close proximity are being treated.

Additional review (As determined by the Authorized Officer):

RMP conformance and CX review confirmation:

Specialist (Print Name and Title): *RHONDA KARGES, PLANNING & ENVIRONMENTAL COORDINATOR*

Signature: *Rhonda Karges* Date: *4/12/11*

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): *JOAN SUTHER, ANDREWS FIELD MANAGER*

Signature:

Jean M. Smith

Date:

4/12/11

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.

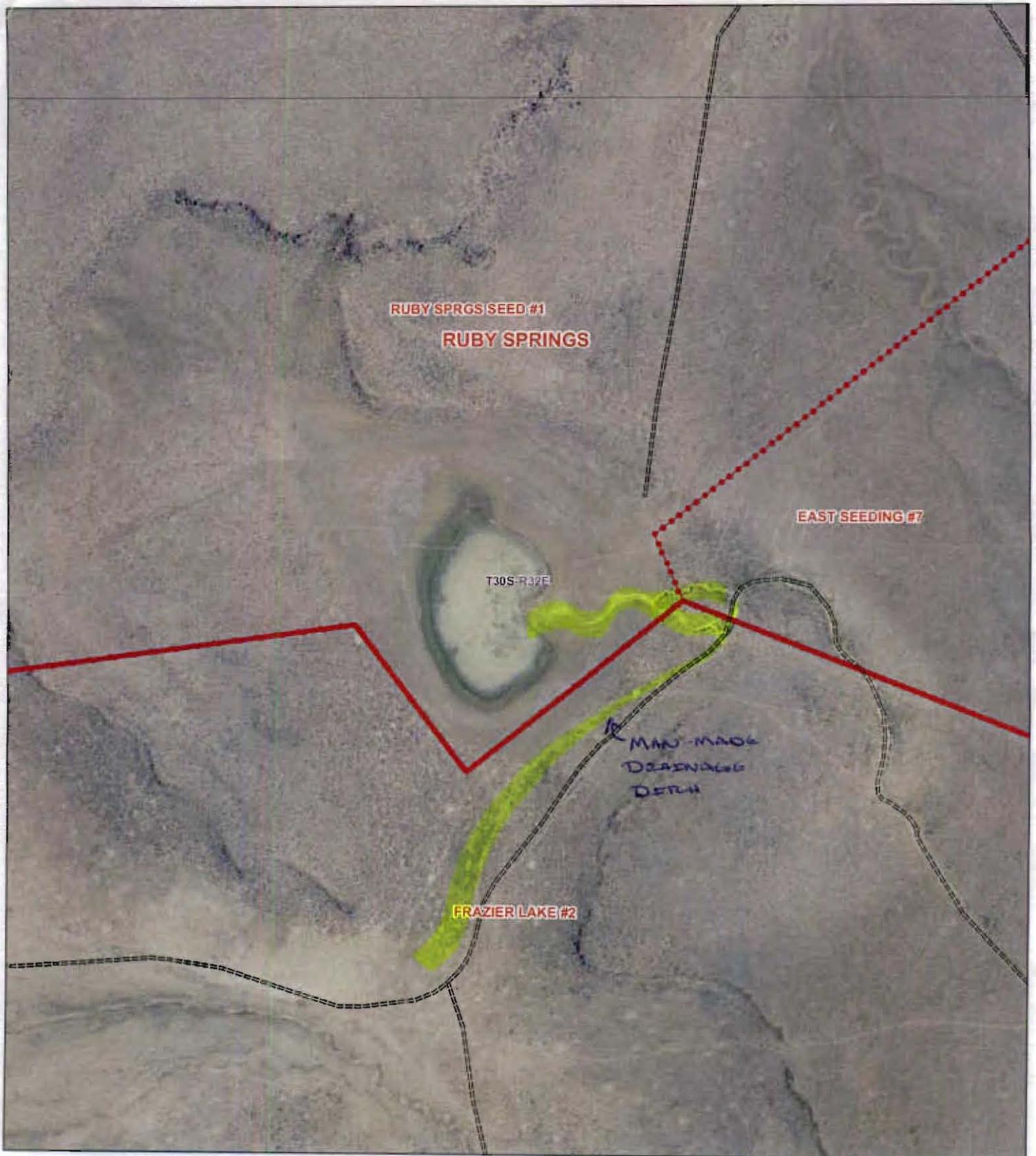
Jean M. Smith

Title and Signature of Authorized Officer

4/12/11

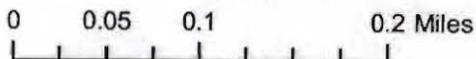
Date

Ruby Springs Mistake Lake Drainage Ditch Repair Map



Legend

- Allotments
- Feature Boundary
- Paved Road
- Non-Paved Improved Road
- Natural/known Road Surface



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, timeliness, 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.

workspace\blm\Ruby Springs\Mistake_Lake.mxd

April 11, 2011