

**United States Department of Interior
Bureau of Land Management
Coos Bay District**

Decision Record for Categorical Exclusion DOI-BLM-OR- C030-2011-0013-CX

Decision:

It is my decision to implement 2011 Occupancy on Elephant Rock Mining Claim as described in DOI-BLM-OR- C030-2011-0013-CX.

Decision Rationale:

The proposed action has been reviewed by Resource Area Staff. Based on the NEPA Categorical Exclusion Review, I have determined that the proposed action involves no significant impact to the human environment and no further analysis is required.

Signature of Authorizing Official:

/s/ *Kathy Hoffine*

Kathy Hoffine
Myrtlewood Field Manager

Date: 9/27/2011

Administrative Remedies

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations contained in 43 CFR Part 4. If an appeal is taken, your notice of appeal must be filed with the Umpqua Field Office, Coos Bay BLM, 1300 Airport Lane, North Bend OR, 97459 (43 CFR 4.411 and 4.413). A copy of the Notice of Appeal must also be sent to the BLM Regional Solicitor, Pacific Northwest Region, 500 NE Multnomah St. Suite 607, Portland, OR 97232.

The appellant has the burden of showing that the decision being appealed is in error.

For further information, contact Emily Kleber, Team Lead, at 1300 Airport Lane, North Bend OR 97459 or (541) 756-0100, or e-mail at blm_or_cb_mail@blm.gov Attn: Emily Kleber.

**United States Department of Interior
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Categorical Exclusion Review (CX)

DOI-BLM-OR-C030-2011-0013-CX
Date: September 19, 2011

A. Background

Project: Occupancy on Elephant Rock Mining Claim

Location: Township 32S, Range 14W, Section 11

Project Description:

On July 22, 2011, Mr. Tom Pitchford submitted a notice to the Coos Bay District Office requesting occupancy for the Elephant Rock mining claim (ORMC166374). The claim is located in the Riparian Management Area under the Coos Bay District's 2008 Resource Management Plan and Riparian Reserve under the 1995 Resource Management Plan. The notice contained a proposal to occupy the mining claim for up to two months duration using one tent, two sleeping bags, and a suction dredge.

Since the mining claimant filed a Notice level request for occupancy, the request is being processed under the 3715 regulations, which involve the use and occupancy under the mining laws. To legally occupy a mining claim for more than 14 calendar days in any 90-day period within a 25-miles radius to the initially occupied site, specific criteria must apply. Under 43 CFR §3715.2, activities that are the rationale for occupancy must:

- a) Be reasonably incident to mining;
- b) Constitute substantially regular work;
- c) Be reasonably calculated to lead to the excavation and benefaction of minerals;
- d) Involve observable on-the-ground activity that BLM may verify;
- e) Use appropriate equipment that is operable.

In addition, 43 CFR §3715.2-1

- a) Protect exposed, concentrated or otherwise accessible valuable minerals from theft or loss
- b) Protect from theft or loss operable equipment that is regularly used, not readily portable, and cannot be protected by other means than occupancy;
- d) Protect the public from surface used, workings or improvement which if left unattended create a safety hazard;
- e) Site located in an area so isolated as to require the operator to remain on site in order to work a full shift, normally 8 hours.

BLM must review the request and provide written determination of concurrence or non-concurrence.

The project entails camping over a 2 month period in a site adjacent to the work area within Sixes River with the following requirements.

The claimant would:

- Occupy the mining claim for the in-stream work period (August 1-September 30).
- Abide by the conditions of the notice approval including no cutting or removal of trees, no visible trash around the claim at any time, no open fires, and a closed septic system for human waste.
- Restore the site when annual occupancy ends, including removing all equipment, as secured by a bond.

B. Land Use Plan Conformance Review: On March 31, 2011, the United States District Court for the District of Columbia vacated and remanded the administrative withdrawal of the Coos Bay District's 2008 *Record of Decision and Resource Management Plan* (Douglas Timber Operators et al. v. Salazar). Due to current litigation concerning the 2008 RMP and uncertainty pertaining to court Opinions, this project is designed to conform to both the 2008 Coos Bay District *Record of Decision and Resource Management Plan* and the 1995 *Record of Decision and Resource Management Plan*. Consequently, this project will be consistent with the goals and objectives in both the 1995 RMP and 2008 ROD and RMP.

The proposed action is in conformance with the resource management plan, even though it is not specifically provided for, because it is clearly consistent with the following resource management plan decision(s) (objectives, terms, and conditions):

2008 Resource Management Plan (RMP) Objectives:

Maintain existing opportunities and develop new opportunities for the exploration and development of locatable, leasable, and salable energy and mineral resources, wind energy development, and casual mineral prospecting. (page 42).

1995 Resource Management Plan (RMP) Objectives:

Maintain exploration and development opportunities for leasable and locatable energy and mineral resources (page 57).

C: Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 2 Appendix 1 J (4):

Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed and none of the extraordinary circumstances described in 516 DM 2 Appendix 2 apply.

<u>Extraordinary Circumstances</u>	<u>Source</u>	<u>Initials</u>	<u>Date</u>
(1) Health & Safety Hazardous Materials	Reviewed by Hazardous Materials Coordinator;	<u>PG</u>	<u>9/19</u>
(2) Unique Resources	Reviewed by Port-Orford Cedar Coordinator	<u>TAS</u>	<u>9/26</u>
(3) Controversial Effects	Reviewed by NEPA Coordinator	<u>SDF</u>	<u>9/19</u>
(4) Risks	Reviewed by NEPA Coordinator	<u>SDF</u>	<u>9/19</u>
(5) Precedent	Reviewed by NEPA Coordinator	<u>SDF</u>	<u>9/19</u>
(6) Cumulative	Reviewed by NEPA Coordinator	<u>SDF</u>	<u>9/19</u>
(7) Cultural & Historic	Reviewed by Archaeologist	<u>SRS</u>	<u>9/21</u>
(8) T & E Species	Reviewed by: Wildlife Biologist, Fisheries Biologist, Botanist	<u>JLH</u> <u>SM</u> <u>JLS</u>	<u>9/23</u> <u>9/26</u> <u>9/27</u>
(9) Violate Laws	Reviewed by NEPA Coordinator	<u>SDF</u>	<u>9/19</u>
(10) Environmental Justice	Reviewed by Environmental Justice Coordinator	<u>SRS</u>	<u>9/21</u>
(11) Native American	Reviewed by District Native American Coordinator	<u>SRS</u>	<u>9/21</u>
(12) Noxious Weeds	Reviewed by Noxious Weed Coordinator	<u>JMS</u>	<u>9/27</u>

A summary of the extraordinary circumstances is listed below. The action must have a significant or a disproportional adverse effect on the listed categories to warrant further analysis and environmental review.

THE PROPOSED CATEGORICAL EXCLUSION ACTION WILL:	YES	NO
2.1 Have significant impacts on public health or safety.		X
Rationale: There is no evidence that allowing tent-camping within this type of setting for a two month period has shown 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 principle drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); national monuments; migratory birds; and other ecologically significant or critical areas.		X
Rationale: The project area does not contain any of the areas listed above.		
2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102 (2)(E)]		X
Rationale: There is no evidence that allowing tent-camping for a two month period has been highly controversial. The ROD/RMP establishes the land use allocation and goals for the affected lands; as such, there are no unresolved conflicts regarding other uses of these resources.		
2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks		X
Rationale: There is no evidence that allowing tent-camping for a two month period has shown highly uncertain, potentially significant, unique or unknown risks.		
2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
Rationale: There is no evidence that this type of activity has potential for precedent-setting for future actions		

THE PROPOSED CATEGORICAL EXCLUSION ACTION WILL:	YES	NO
with significant environmental risks involved with this project.		
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects		X
Rationale: This project has no relationship with other actions which cumulatively would have 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.		X
Rationale: This activity generally does not occur in the proximity of the few places on the District that are listed, or eligible for listing, on the National register of Historic Places. If significant cultural resources are located during this project, they would be excavated, reported and curated in accordance with laws, regulations, the Oregon SHPO Protocol and the BLM 8100 Manual specifications.		
2.8 Have significant impacts on species listed, or proposed to be listed, on the List of Threatened or Endangered Species, or have significant impacts on designated Critical Habitat for these species.		X
Rationale: This type of activity does not remove suitable habitat for northern spotted owls or marbled murrelets. The proposed action will not affect Coho or its critical habitat. Sediment, temperature, and large wood would not be affected because trees would not be removed, no new roads would be constructed, and camping would occur during the dry season at an existing site.		
2.9 Violate a Federal, State, Local, or tribal law or requirement imposed for the protection of the environment.		X
Rationale: The proposed action conforms to the direction given for the management of public lands in the ROD/RMP, which complies with all applicable Federal, State, local and tribal laws.		
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
Rationale: This project would not have a disproportionally high and adverse effect on low income or minority populations.		
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).		X
Rationale: This project would not act to limit access to and ceremonial use of Indian sacred sites by Indian religious practitioners or significantly affect the physical integrity of a sacred site.		
2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or non-native 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, Oregon Revised Statutes 569-350)		X
Rationale: The proposed action does not introduce any vector for spread or introduction beyond such vectors already found. Vehicles accessing the project area would stay on existing roads, reducing the potential of picking up and dispersing noxious weed or seed. All equipment is cleaned prior to movement onto BLM lands.		

D. Signature

Authorizing Official: _____ Field Manager: /S/ Kathy Hoffine Date: 9/27/2011

E. Contact Person

For additional information concerning this CX review, contact Emily Kleber, Geologist, Coos Bay District Office, 1300 Airport Land, North Bend, OR 97459, (541)756-0100.