

**RECORD OF PLAN CONFORMANCE AND
CATEGORICAL EXCLUSION (CX) DETERMINATION
Bureau of Land Management (BLM)**

Project Name: Yainax Communication Site Temporary Use Permit # DOI-BLM-OR-L040-2010-0002-CX

Project Location: Yainax Butte (T.37 S., R. 12 E., Sec. 26) Lease or Serial #: N/A

BLM Office: Lakeview District, Klamath Falls Resource Area County: Klamath County, Oregon

A. Background

Description of Proposed Action:

The proposed action would consist of placement of a small two-wheeled trailer on Yainax Butte next to the old caretaker's building and the access road in an area previously cleared of vegetation, and attaching a temporary antenna-bearing structure to the adjacent old lookout tower (see Attachment A) that is within the footprint of the existing communication site. The trailer would contain the communications equipment and a source of power to operate the equipment.

Purpose and Need for the Project:

The Klamath Falls Resource Area (KFRA) has received a request for authorization for a temporary use permit to set up portable equipment at the Yainax Butte communication site until such time that the application for a permanent right-of-way can be analyzed. The KFRA needs to respond to this application for use. The Applicant representing the 4 A's Ranch has private land surrounding Yainax Butte but has very poor communication. To increase the safety of their employees by improving communication capability he requested a permit to install communication equipment in the Yainax Butte Communication site in 2005. Currently the BLM and the Oregon Department of Forestry have communication equipment on Yainax Butte. The 1995 KFRA Resource Management Plan (1995 RMP) limited the use of the Yainax Butte communication site to government agencies. During the 2008 RMP revision process, one of the changes approved was to open this communication site to other users. However, the 2008 Record of Decision was subsequently withdrawn. (See the Land Use Plan Conformance section below.) At this point, a Plan Amendment to the 1995 RMP is necessary to allow permanent use of Yainax Butte communication site by non-government entities. Meanwhile, the need for increased communication capability for the 4 A's Ranch has not diminished. In addition, two other interests in temporary or permanent use of the communication site have been requested (Collins Products and Ruby Pipeline). Both of these other uses can be accommodated in the facilities requested by the Applicant.

Description of Affected Area:

Yainax Butte is a designated Communications Site located approximately 25 miles east of Klamath Falls, Oregon and approximately 8 miles south of the community of Beatty. It is on Yainax Butte, a prominent landmark in the area. The elevation at the Yainax Butte Communications Site is approximately 7,185 feet above mean sea level. A communication site plan was developed in 2008-2009. Within the Communications Site is an old lookout tower and caretaker's building. The existing lookout tower would be used temporarily for placement of the antennae. Approximately 720 acres of the Bureau of Land Management (BLM) land on Yainax Butte is also designated as an Area of Critical Environmental Concern. This area encompasses the Communication Site and lands surrounding the site. These lands should be managed to maintain, protect and restore natural processes and systems. Placement of facilities within existing disturbed area would not affect the ACEC or the ability of the BLM to maintain, protect and restore natural processes and systems.

Proposed Implementation:

The individual requesting authorization would like to implement this action as soon as possible. The temporary use permit would be in effect for a period not to exceed three years.

B. Land Use Plan Conformance

On July 16, 2009 the U.S. Department of the Interior, withdrew the 2008 Records of Decision for the Western Oregon Plan Revision (2008 ROD) and directed the BLM to implement actions in conformance with the resource management plans for western Oregon that were in place prior to December 30, 2008. The RMP in place at that time was the 1995 Klamath Falls Resource Area Resource Management Plan (1995 RMP). This project is designed to comply with the land use allocations, management direction, and objectives of the 1995

RMP. The proposed project has also been reviewed and found to be in conformance with one or more of the following BLM plans, programmatic environmental analyses or policies:

- Vegetation Treatment on BLM Lands in Thirteen Western States FEIS and ROD (1991)
- Lakeview District Fire Management Plan – Phase 1 (1998)
- National Fire Plan (A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy) (2001)

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 11.9, E(12) – *Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way*, provided none of the Extraordinary Circumstances listed in 516 Departmental Manual 2, Appendix 2 (5/27/04) are met. The proposed action will:

| CX Extraordinary Circumstances Documentation | | |
|--|------------|-----------|
| The proposed categorical exclusion action will: | YES | NO |
| 2.1 Have significant impacts on public health or safety. Rationale: Temporary establishment and use of communications equipment would result in increased safety for users of the site, but should not have significant impacts on other public health or safety. | | X |
| 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); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas. Rationale: Yainax Butte, including the communication site, is designated as an Area of Critical Environmental Concern. These values will not be affected by the proposed action. Other resources listed above are either not present or not affected by the proposed action. | | X |
| 2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]. Rationale: The action is compatible with existing uses of the site and is not controversial. | | X |
| 2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. Rationale: The action is compatible with existing uses of the site and does not involve unique or unknown risks. | | X |
| 2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. Rationale: Authorization of this temporary use would not result in a use with potentially significant effects. | | X |
| 2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. Rationale: No other actions that could result in negative cumulative effects are anticipated. | | X |
| 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. Rationale: There are cultural resource properties known to exist on Yainax Butte, but there are no known listed or eligible properties in the project area. Because this project does not include new ground disturbance, this is a project "that does not have the potential to cause effects on historic Properties" as per 36 CFR 800.3(a) and (a)(1). | | X |
| 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. Rationale: There are no species listed or proposed for listing, and no Designated Critical Habitat in the affected area. | | X |
| 2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. Rationale: No laws would be violated. | | X |
| 2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). Rationale: There would be no disproportionate effects on low income or minority populations | | X |
| 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). Rationale: The proposed action would not limit access to, use of, or physical integrity of Indian Sacred sites. | | X |
| 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). Rationale: No ground disturbing activities are proposed although vehicle access is allowed (see Mitigation Measures). | | X |

The proposed action would not meet any of the above extraordinary circumstances, or fail to comply with Executive Order 13212 (Actions to Expedite Energy-Related Projects) – to avoid direct or indirect adverse impact on energy development, production, supply, and/or distribution.

D. Surveys and Consultation

Surveys and/or consultation may be needed for special status plants and animals, for cultural resources, and other resources as necessary (appropriate fields are Initialed and Dated by responsible resource specialist):

| Surveys | Are Completed | Will Be Completed | Are Not Needed |
|-------------------------|----------------------|--------------------------|-----------------------|
| SS Animals | | | SGH 11/16/09 |
| SS Plants | | | MJB 11/13/09 |
| Cultural Resources | | | BMB 11/13/09 |
| Consultation | Is Completed | Will Be Completed | Is Not Needed |
| SS Animal Consultation* | | | SGH 11/16/09 |
| Botanical Consultation | | | MJB 11/13/09 |
| Cultural Consultation | BMB 11/13/09 | | |
| *(SS = Special Status) | | | |

E. Mitigation Measures

Roads

Access to the site is restricted to conditions which do not result in road damage of rutting in excess of one inch deep.

Weeds

All vehicles and equipment will be cleaned off prior to operating on BLM lands. Removal of all dirt, grease, and plant parts that may carry noxious weed seeds or vegetative parts is required and may be accomplished with a high pressure hose.

Temporary Use

This is a temporary use authorization. No permanent use or construction of permanent structures is permitted. At the expiration of the temporary use period, all equipment will be removed.

Special Status Plants

A population of BLM Sensitive blue leaved penstemon (*Penstemon glaucinus*) occurs on the north slope and the summit of Yainax Butte. Care should be taken to avoid this plant population and if possible avoid ground disturbance in this area.

F. Contact Person

For additional information concerning this CX review, contact:

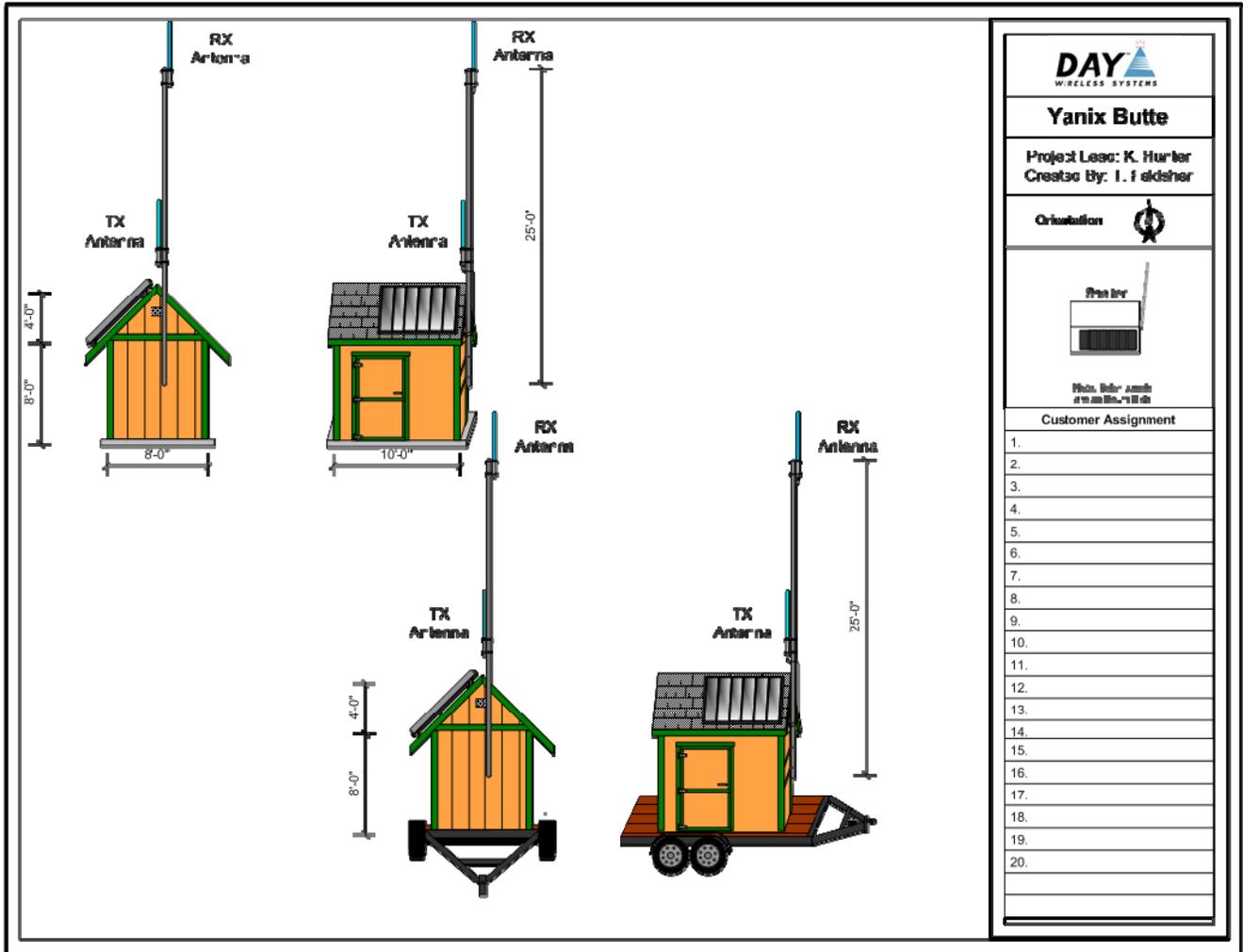
Don Hoffheins, Klamath Falls Resource Area, 2795 Anderson Avenue, Building 25, Klamath Falls, Oregon 97603-7891 or telephone: 541-883-6916.

Attachment A – Proposed Project Location



Bureau of Land Management- Klamath Falls Resource Area

Attachment B – Diagram of Tuff Shed on Trailer



**Decision on the Categorical Exclusion (CX) Determination for the
Yainax Communication Site Temporary Use Permit # DOI-BLM-OR-L040-2010-0002-CX**

It is my decision to authorize establishment and use of a temporary communication site on Yainax Butte by the 4 A's Ranch as described and shown on the attached map.

Rationale

The proposed action has been reviewed by the Klamath Falls Resource Area staff and appropriate mitigations and Project Design Features, as specified, will be incorporated into the proposal. The proposed action would not create adverse environmental effects, meet any of the above extraordinary circumstances, or fail to comply with Executive Order 13212 (Actions to Expedite Energy-Related Projects) – to avoid direct or indirect adverse impact on energy development, production, supply, and/or distribution.

Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the human environment and no further environmental analysis is required.

Signature

Authorizing Official: /s/ Donald J. Holmstrom
(Signature)

Date: 12/15/09

Name: Donald J. Holmstrom

Title: Manager, Klamath Falls Resource Area

Administrative Remedy

Notice of the decision made on the action described in the categorical exclusion will be posted on the District internet website. The action is subject to protest under 43 CFR Section 4.450-2. A decision in response to a protest is subject to appeal to the Interior Board of Land Appeals under 43 CFR Part 4.