RECORD OF PLAN CONFORMANCE AND

CATEGORICAL EXCLUSION (CX) DETERMINATION

Bureau of Land Management (BLM)

Project Name: **Noble Access Road Row**
CX Log #: DOI-BLM-OR-L040-2015-12-CX
Project Location: T38S., R13E., Sec.26 and 35 (see attached map) Lease or Serial #: OR 68392
BLM Office: Lakeview District, Klamath Falls Resource Area County: Klamath County, Oregon

A. Background

Description of Proposed Action:
The applicant is requesting legal access to his private property located on BLM Road 38-35-0. The property is currently used as pasture. No new construction will occur. This is an existing road. No construction or changes to the road prism are requested. Routine maintenance will be required of the ROW holder and any future development will require an amendment to the right of way. BLM is the holder of Easement OR18249 across Noble private property located T38S., R13E., Sec.26. NE1/4 SW1/4 also on BLM Road 38-35-0.

The request is for a ROW 3,972 feet by 16 feet within the existing BLM Road 38-35-0 (Seven Springs Road) going NW from Gerber Road. The area encompasses 1.5 Acres. BLM will retain the right to require culverts installed by the holder to the satisfaction of the authorized officer.

Purpose and Need for the Project:
The purpose of the proposed action is for the BLM to grant a Right-of-Way for access to private property

Additional Related Actions, if any:
NONE

Proposed Implementation:
The road is currently being used and the proponent is requesting legal access.

B. Land Use Plan Name: Klamath Falls Resource Management Plan
Land Use Plan Name: Klamath Falls Resource Management Plan
Date Approved/Amended June 1995
The proposed action is in conformance with the Klamath Falls Resource Area Resource Management Plan, (Refer to page 66). Continue to make BLM administered lands available for needed rights-of-way where consistent with local comprehensive plans, Oregon statewide planning goals and rules, and the exclusion and avoidance areas identified in this Resource Management Plan.

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 rights-of-way wholly within the boundaries of other compatibly developed rights-of-way.***

The proposed action is categorically excluded from further analysis or documentation under the National Environmental Policy Act (NEPA) provided none of the Extraordinary Circumstances listed in 516 Departmental Manual 2, Appendix 2 (5/27/04) are met. The following documentation describes whether or not the extraordinary circumstances apply to the project:

CX Extraordinary Circumstances Documentation		
Will the proposed categorical exclusion action:	**YES**	**NO**
2.1 Have significant impacts on public health or safety.		X
Rationale: Consulted with field/district office health and safety specialist and no significant impacts were identified.		
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.		X
Rationale: The project area was reviewed by resource specialists and they concluded that no unique features are present.		
2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		X
Rationale: No highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources were identified by resource specialist during project analysis.		
2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
Rationale: No highly uncertain and potentially significant environmental effects or unknown environmental risks were identified by resource specialist during project analysis.		
2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
Rationale: This is a minor and routine action that will not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
Rationale: No direct relationships to other actions with individually insignificant but cumulatively significant environmental effects were identified by resource specialists during project analysis.		
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: The proposal would occur on an existing road which would be maintained but would not be upgraded except for possible culvert installation. The road is already thoroughly disturbed and has been crowned, ditched, and armored with aggregate. Maintenance activities are not likely to encounter any intact cultural resources. Culverts, if required, would be installed through the road in low areas or ephemeral channels where resources are not likely to occur, in addition to being in disturbed areas. Accordingly, the proposal would result in no effect to historic properties, and no impact to properties listed, or eligible for listing, on the National Register of Historic Places. This is an existing right-of-way which has been previously inventoried. The project lies within a historic site. Based on the recommendation of cultural resource specialists, there will be no impacts to properties listed, or eligible for listing, on the National Register of Historic Places.		
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.		X
Rationale: Resource specialists have reviewed the proposed action and determined that there would be no 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.		
2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
Rationale: This is a routine BLM action that does not violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
Rationale: Review of the project area locations shows no disproportionately 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: Based on the recommendation of cultural resource specialists, the project does not 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.		
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).		X
Rationale: Refer to Exhibit A (attached) ROW project design features (PDFs).		

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 are not 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 06/08/15
SS Plants			
Cultural Resources			LN 4/28/2015
Consultation	**Is Completed**	**Will Be Completed**	**Is Not Needed**
SS Animal Consultation*			SGH 06/08/15
Botanical Consultation			
Cultural Consultation			LN 4/28/2015
*(SS = Special Status)			

E. Contact Person
For additional information concerning this CX review, contact: Debora Boudreau, Realty Specialist, Klamath Falls Resource Area, 2795 Anderson Avenue, Building 25, Klamath Falls, Oregon 97603-7891 or 541-885-4150.

Determination for Dave NobleAccess Road ROW
ROW #OR 68392
DOI-BLM-OR-L040-2015-012-CX

I have determined that it is appropriate to proceed with the Proposed Action as described in the attached Categorical Exclusion (CX) and shown on the attached map(s).

Rationale
The proposed action has been reviewed by the Klamath Falls Resource Area staff and appropriate 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* Date: *6/15/2015*
(Signature)
Name: Donald J. Holmstrom
Title: Manager, Klamath Falls Resource Area

EXHIBIT A

STIPULATIONS/Project Design Features (PDFs)

By accepting a grant, you agree to comply with and be bound by the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

1. To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and state laws and regulations applicable to the authorized use.

2. Rebuild and repair roads, fences, and established trails destroyed or damaged by the project and or use by row holder.

3. Build and maintain suitable crossings for existing roads and significant trails that intersect the project.

4. Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area. Abide by current fire restrictions.

5. Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate.

6. Pay monitoring fees and rent described in 43 CFR Sec. 2805.16 of this subpart and subpart 2806 of this part.

7. If BLM requires, obtain, and/or certify that you have obtained, a surety bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property in connection with your use and occupancy of the right-of-way, including terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. BLM may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant

8. Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (see 43 CFR Sec. 2807.12 of this part);

9. Comply with project-specific terms, conditions, and stipulations.

10. Restore, re-vegetate, and curtail erosion or conduct any other rehabilitation measure BLM determines necessary;

11. Ensure that activities in connection with the grant comply with air and water quality standards or related facility citing standards contained in applicable Federal or state law or regulations;

12. Control or prevent damage to Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat; Public and private property; and public health and safety;

13. Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant

14. Notify the Authorized officer of any maintenance or repairs prior to taking any action on the Right-of-Way.

15. When the state standards are more stringent than Federal standards, comply with state standards for public health and safety, environmental protection, and citing, constructing, operating, and maintaining any facilities and improvements on the right-of-way

16. Grant BLM an equivalent authorization for an access road across your land if BLM determines the reciprocal authorization is needed in the public interest and the authorization BLM issues to you is also for road access

17. Immediately notify all Federal, state, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify BLM at the same time, and send BLM a copy of any written notification you prepared

18. Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant

19. Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq., when you receive, assign, renew, amend, or terminate your grant

20. Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, state, tribal, or local agency having jurisdiction over the land, resource, or hazardous material

21. Comply with all liability and indemnification provisions and stipulations in the grant

22. As BLM directs, provide diagrams or maps showing the location of any constructed facility

23. Comply with all other stipulations that BLM may require.

24. Conditions of Approval to Protect Cultural Values

    A cultural inventory shall be conducted to BLM's satisfaction prior to construction of any wing ditches, such as may be needed around culverts, or for other disturbance outside of the existing road prism. Ditches may be cleaned without inventory, but they may not be widened.

    If subsurface cultural resources are unearthed during operations, activity in the vicinity of the cultural resource will cease and a BLM representative notified immediately. Pursuant to 43 C.F.R. 10.4 the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, the project leader/operator/permittee/etc. must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures that are made by the authorized officer (BLM).

The project leader/operator/permittee/etc. is responsible for informing all persons associated with this project that they will be subject to prosecution for knowingly disturbing Native American Indian shrines, historic and prehistoric archaeology sites, or for collecting artifacts of any kind, including historic items and/or arrowheads from Federal lands pursuant to the 1906 American Antiquities Act (P.L. 59-209; 34 Stat. 225; 16 U.S.C. 432, 433), the Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 U.S.C. 47Oee as amended), and/or other federal laws.

25. Wildlife

    For Bald Eagles and Golden Eagles use the Fish and Wildlife Service Bald Eagle Management guidelines. Seasonal Restriction period would occur from Jan 1- August 31. These guidelines can be found at the following web site;
    http://www.fws.gov/pacific/eagle/NationalBaldEagleManagementGuidelines.pdf

    For all other raptors use the latest information of the critical nesting period for the raptor species and implement seasonal restrictions from human caused disturbance that may result in nest failure or abandonment.

26. The Lessee or Right-of-Way (ROW) Holder shall post the lease or ROW Serial Number on all structures authorized by the lease or grant where practical.

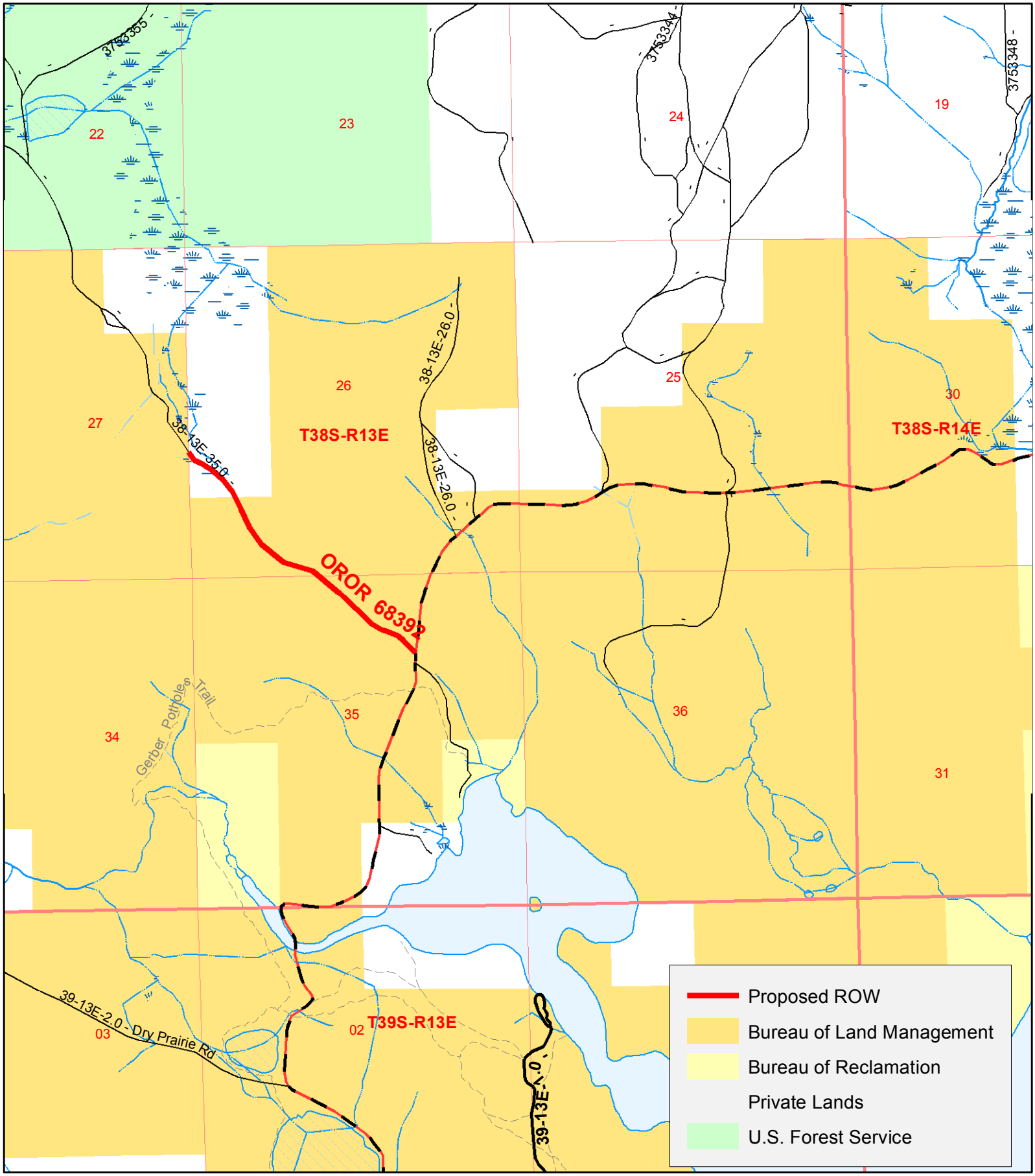
27. During the closure period (winter and spring), user will only use the road when it is frozen or dry and will not use the road during wet conditions. If the road is damaged by holder, holder will be required to pay for road maintenance and/or make adequate repairs to road surface and drainage features. This is necessary to keep roads in satisfactory condition, prevent excessive erosion, and to protect the road from winter and spring road use damage. Except in emergency situations, grantor may suspend the use of roads during periods when the forests are closed by lawful authority. Grantor may also suspend the use of such roads when, due to weather conditions, unrestricted use would cause excessive damage to the roads.

28. You are required to contact the Authorized officer in the event of a name change or address change.

29. All of Holder's controlled equipment or equipment under contract to Holder operating upon such roads shall be maintained in a good and safe operating condition and shall be operated cautiously so as to minimize accident hazards. All truck drivers shall have a valid Oregon Truck Operators license. Holder shall abide by all regulations posted along the roads by the Grantor.

30. RS 4767.625 requires that every person conducting an operation inside or within one-eighth mile of forest protection district that uses fire in any form or power driven machinery (50 cubic inch displacement engine or larger) shall first obtain a Permit to Operate Power Driven Machinery from the Klamath Lake District Oregon Department of Forestry. Operators must also comply with current fire restrictions based on current industrial fire precaution levels identified by Oregon Department of Forestry.

Noble OROR 68392 ROW CX



Klamath Falls Resource Area
Lakeview District - Bureau of Land Management
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