

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
GRANTS PASS RESOURCE AREA**

**Categorical Exclusion Determination and Decision Record
O&C Logging Road Right-of-Way Permit to Aleda Denton
No. M-5053 (OR 067114)**

DOI-BLM-OR-M080-2012-008-CX

A. Background

Name of Applicant: Aleda Denton

Location of Proposed Action: T.33S., R.6W., Section 34; and T.34 S., R.6 W., Section 3 Medford District, Grants Pass Resource Area, Josephine County (see Exhibit A Map attached).

Description of Proposed Action:

The Proposed Action is the issuance of an O&C Logging Road Right-of-Way Permit to Aleda Denton, under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743. This proposed action has been designated as Permit No. M-5053 (OR 067114). The requested period of use is for 1 year, with the possibility of one-year extensions at the discretion of the Authorized Officer. Harvesting of timber will occur on private land located in T. 34 S., R. 6 W., Section 4. The permit would allow commercial hauling of approximately 90 thousand board feet (MBF) of private timber over approximately 2.14 miles of existing BLM roads within the matrix land allocation. Utilization of these roads would, by itself, not facilitate any ground-disturbing actions on federal lands. The permit would not be a determining factor as to whether ground-disturbing actions would occur on private lands. Fees will be collected from the permittee for road maintenance.

The area to be harvested is identified as:

Area to Be Harvested			
T.	R.	Sec.	Subdivision
34S	6W	4	Portion NW¼

The following table identifies the U.S. roads to be used, estimated timber and/or mineral volumes to be hauled over each road and the anticipated haul periods:

BLM Roads to be Used						
BLM Road and Segment No.	Seg. Length	Length to be Used	Present Surface Type	Haul Period	Estimated Timber Volume to be Hauled (MBF)	Estimated Mineral Volume to be Hauled (CY)
34-6-03.01A	0.51	0.51	ASC	1 Year	90	N/A
34-6-03.01B	0.51	0.51	ASC	1 Year	90	N/A
34-4-03.02	0.82	0.82	ASC	1 Year	90	N/A
34-6-34.00A	0.20	0.20	ASC	1 Year	90	N/A
34-6-34.01	0.10	0.10	NAT	1 Year	90	N/A

Project Design Features

Addition to use of the above roads, the applicant would minimize effects by the following:

- Use of the following roads may be used between the periods from October 15th to May 15th, with the written permission of the Authorized Officer.

<u>Road No.</u>	<u>Segment</u>
34-6-03.01	A
34-6-03.01	B
34-4-03.02	
34-6-34.00	A
34-6-34.01	

- Haul would not occur on any hydrologically connected roads when water is flowing in the ditchlines or during any conditions that would result in any of the following; surface displacement such as rutting or ribbons; continuous mud splash or tire slide; fines being pumped through road surfacing from the subgrade and resulting in a layer of surface sludge; road drainage causing a visible increase in stream turbidities, or any condition that would result in water being chronically routed into tire tracks or away from designed road drainage during precipitation events. Hauling would not resume for 72 hours following any storm that results in visible ponding/puddling on road surface or until road surface is sufficiently dry to prevent any of the above conditions from reoccurring, as approved by the authorized officer.
- If the permittee elects to haul on the BLM roads during rain events, the permittee would be required to place and compact, durable rock of sufficient depth across the road surface to prevent road damage, offsite erosion, or stream sedimentation as determined by the Authorized Officer. Durable rock would be from a BLM approved source. Currently the road condition for these roads are adequately surfaced for dry season or extended season hauling only.
- All Activities associated with the operation and use of the identified BLM roads would be in compliance with the terms and conditions of Right-of Way Permit M-5053 (OR 067114).

B. Plan Conformance Review

This proposed action is consistent with policy directed by the following:

- *Final Supplemental Environmental Impact Statement and Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan FSEIS, 1994 and ROD, 1994);
- the *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (EIS, 1994 and RMP/ROD, 1995);
- *Medford District Integrated Weed Management Plan Environmental Assessment (1998)* and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985)

- *Final Supplemental Environmental Impact Statement and Record of Decision for Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (FSEIS, 2001 and ROD, 2001).*

On March 31, 2011, the United States District Court for the District of Columbia vacated and remanded the Secretary of the Interior's decision to withdraw the 2008 RODs/RMPs (Douglas Timber Operators et al. v. Salazar) effectively returning the districts to the 2008 RMPS.

Given the current uncertainty surrounding planning in western Oregon, The Medford District has designed projects to conform to both, the 2008 ROD/RMP and the 1995 ROD/RMP. Consequently, projects have been consistent with the goals and objectives in both the 1995 RMP and 2008 RMP.

The proposed action is in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act, and the Archaeological Resources Protection Act of 1979.

This proposed action is consistent with management direction in the Medford District Resource Management Plan that directs the BLM to continue to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans, Oregon state-wide planning goals and rules, and the exclusion and avoidance areas identified in the Resource Management Plan (USDI 1995, p. 82).

C. NEPA Categorical Exclusion Review

This proposed action qualifies as a categorical exclusion as provided in United States Department of the Interior Departmental Manual 516 DM 11.9.E.16. This section allows for "Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes." The Code of Federal Regulations (43 CFR § 46.215) provides for a review of the following criteria for categorical exclusion to determine if exceptions apply to the proposed action based on actions which may:

1. Have significant adverse effect on public health or safety. Yes No

Remarks: None

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. Yes No

Remarks: None

3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. Yes No

Remarks: None

4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental effects. Yes No

Remarks: None

5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. Yes No

Remarks: None

6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. Yes No

Remarks: None

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. Yes No

Remarks: None

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. Yes No

Remarks: Consultation for the Endangered Species Act with NMFS is not needed as the Proposed Action would not affect listed species or their habitat. Consultation with the NMFS for ESA or the Magnuson-Stevens Fishery Conservation and Management Act is not needed as there is no listed fish species within the Planning Area.

9. Violate a Federal law, or a State, local, or Tribal law or requirement imposed for the protection of the environment. Yes No

Remarks: None

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). Yes No

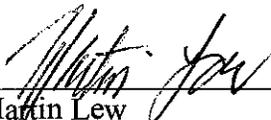
Remarks: None

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). Yes No

Remarks: None

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). Yes No

Remarks: None

Prepared by 
Martin Lew
Environmental Planner

Date: 4/11/12

D. Signature of Authorizing Official


Karen Schank, Field Manager
Grants Pass Resource Area

4/11/12

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE
GRANTS PASS RESOURCE AREA

Decision Record
Aleda Denton O & C Road Right-of-Way Permit
No. M-5053 (OR 067114)
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Proposed Action

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Decision and Rationale

It is my decision to authorize O&C Logging Road Right-of-Way Permit No. M-5053, Serial No. OR 067114 as described in the Proposed Action. The project is planned for implementation spring 2012.

The proposed action has been reviewed by the Grants Pass Resource Area staff and appropriate Project Design Features and Terms and Conditions will be incorporated into the Proposed Action. Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the environment and no further environmental analysis is required.



Karen Schank, Field Manager
Grants Pass Resource Area



Date

ADMINISTRATIVE REMEDIES:

Administrative review of right-of-way decisions requiring National Environmental Policy Act (NEPA) assessment will be available under 43 CFR Part 4 to those who have a "legally cognizable interest" to which there is a substantial likelihood that the action authorized would cause injury, and who have established themselves as a "party to the case." (See 43 CFR § 4.410 (a) – (c)). Other than the applicant/proponent for the right-of-way action, in order to be considered a "party to the case" the person claiming to be adversely affected by the decision must show that they have notified the BLM that they have a "legally cognizable interest" and the decision on appeal has caused or is substantially likely to cause injury to that interest (See 43 CFR § 4.410(d)).

EFFECTIVE DATE OF DECISION

This is a lands decision on a right-of-way action in accordance with BLM regulations at 43 CFR Subpart 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after the date of service) where no petition for a stay is filed, or 45 days after the expiration of the appeal period where a timely petition for a stay is filed, unless the Director of the Office of Hearings and Appeals or an Appeals Board has determined otherwise in accordance with specified standards enumerated in 43 CFR 4.21(b).

RIGHT OF APPEAL

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a "legally cognizable interest" to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a "party to the case." (See 43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after the date of service. Only signed hard copies of a notice of appeal that are delivered to:

*BUREAU OF LAND MANAGEMENT
GRANTS PASS INTERAGENCY OFFICE
2164 NE Spalding
Grants Pass, OR 97526*

will be accepted. Faxed or e-mailed appeals will not be considered.

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for 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 the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor, and Aleda Denton at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations. 43 CFR § 4.413(a). At the end of your notice of appeal you must sign a certification that service has been or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413) and specify the date and manner of such service.

The IBLA will review any petition for a stay and may grant or deny the stay. If the IBLA takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until IBLA makes a final ruling on the case.

HOW TO FILE AN APPEAL

See the attached Form 1842-1 for complete instructions on Filing an Appeal

CONTACT INFORMATION

For additional information contact:

Karen Schank, Field Manager, Grants Pass Resource Area

Grants Pass Interagency Office

Bureau of Land Management

2164 NE Spalding

Grants Pass, OR 97526

(541) 471-6653

Or Martin Lew (Grants Pass Resource Area Environmental Planner) at 541-471-6504

Additional contact addresses include:

- U.S. Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy Street, MS 300-QC
Arlington, Virginia 22203
- Regional Solicitor
Pacific Northwest Region
U.S. Department of the Interior
805 S.W. Broadway, Suite 600
Portland, Oregon 97205
- Aleda Denton
2671 Oswell St, Apt 184A
Bakersfield, CA 93306

Attachments:

Form 1842-1

Exhibit A Map

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL.....

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL.....

U.S. Department of the Interior, Bureau of Land Management
Grants Pass Interagency Office
2164 NE Spalding
Grants Pass, OR 97526

WITH COPY TO SOLICITOR...

U.S. Department of the Interior
Office of the Regional Solicitor, Pacific Northwest Region
805 S.W. Broadway, Suite 600
Portland, OR 97205

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR.....

U.S. Department of the Interior
Office of the Regional Solicitor, Pacific Northwest Region
805 S.W. Broadway, Suite 600
Portland, OR 9720

4. ADVERSE PARTIES.....

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE.....

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY.....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). 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 (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 regulations, 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 the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office --- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)

