

CATEGORICAL EXCLUSION REVIEW & DECISION RECORD

(DOI-BLM-OR-M060-2011-0021-CX)

Project Name: O&C Logging Road Right-of-Way Permit No. M-660 (OR48747) and M-5044 (OR66755)

BLM Office: Ashland Resource Area, Medford District Office

Contact: Dave Allen, Project Leader; Phone: 541- 618-2472

Location: The haul route and affected roads are located on BLM administered lands in T. 37 S., R. 3 E., in Sections 31 & 32, T. 38 S., R. 2 E., in Section 1 and T. 38 S., R. 3 E., in Sections 5& 6, Willamette Meridian, Jackson County, Oregon (Map 1).

DESCRIPTION OF THE PROPOSED ACTION:

The Ashland Resource Area of the Medford District BLM proposes to issue an O&C Logging Road Right-of-Way Permit to Meriwether Southern Oregon Land and Timber, LLC, under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743. This has been designated as Permit No. M-5044 (OR 066755). The requested period of use is for 3 years, with the possibility of one-year extensions at the discretion of the Authorized Officer under this permit. The permit will allow commercial hauling of approximately 1,680 MBF of private timber over **existing** BLM road(s). 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. The BLM also proposes an amendment to the M-660 Agreement to add roads listed in Table 1 below to the M-660 Agreement. The following table identifies the BLM roads to be used, estimated timber volumes to be hauled over each road and the anticipated haul periods:

Table 1. BLM roads proposed for use and to be added to the M-660 Agreement.

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)
37-3E-31.0A	1.68	1.68	ASC	6/1/12-10/30/13	1,180	0
37-3E-31.0B	0.41	0.41	ASC	6/1/12-10/30/13	1,180	0
37-3E-32.0A1	0.29	0.29	ASC	6/1/12-10/30/13	1,180	0
38-2E-11.0F	0.03	0.03	ASC	6/1/12-10/30/13	1,180	0
38-2E-11.0G	0.48	0.48	ASC	6/1/12-10/30/13	1,180	0
38-2E-11.0H	1.94	1.94	ASC	6/1/12-10/30/13	1,180	0
38-3E-17.0C2	1.05	1.05	BST	9/1/11-10/30/11	500	0
38-3E-17.0D1	1.52	1.52	BST	9/1/11-10/30/11	500	0
38-3E-17.0D2	0.70	0.70	BST	9/1/11-10/30/13	1,680	0
38-3E-17.0E	1.11	1.11	BST	9/1/11-10/30/13	1,680	0

The Permittee agrees to comply with the following environmental and safety stipulations as required project design features:

Objective Prevent Offsite Soil Erosion

- (1) Restrict road maintenance and other ground disturbing activities to the dry months (May-October).
- (2) When maintaining inboard ditches, avoid blading and vegetation removal unless absolutely necessary. No ditch maintenance shall occur during the wet season (Nov-May) unless for safety or resource protection.
- (3) All soil disturbance associated with road drainage improvement and culvert installation/replacement shall be within the existing road Rights-of-Way
- (4) All ground disturbance within riparian reserves shall be mulched with weed free straw or native materials. A minimum of 80 percent ground cover shall be maintained following such activities. Where the potential for surface erosion is high, consider seeding with native grass seed.
- (5) Refer to soils section for seasonal hauling restrictions.
- (6) No hauling would occur on natural surfaced roads during the wet season (October 15th to June 1). This would protect the road from damage and decrease the potential for off-site sediment movement. Some variations in these dates would be permitted dependent upon weather and soil moisture conditions of the roads.
- (7) Hauling would be allowed between May 15th and November 15th on roads surfaced with at least 6 inches of pit-run rock or 8 inches of crushed rock.
ASC = hauling restricted between 10/15 and 6/1
BST = hauling restricted between 11/15 and 5/15
Note: If Purchaser furnishes and places additional rock. Seasonal restrictions could be modified as approved by the Authorized Officer
- (8) Dust abatement would include water or lignin.
- (9) Close hauling for 24 hours after an accumulation of ≥ 0.2 in. of rain in a 24 hour period.
- (10) The Permittee shall discontinue hauling under this permit upon written notice of the Authorized Officer that such operations are causing damage to the existing facilities.

PLAN CONFORMANCE

This proposed O&C Logging Road Right-of-Way Permit complies with direction provided under the 2008 Western Oregon Plan Revision Record of Decision and Resource Management Plan, to "provide needed rights-of-way ... consistent with federal and state law" (p. 49). The proposed action is also in compliance with the 1995 Medford District Record of Decision and Resource Management Plan (RMP) which states to "continue to make BLM-administered lands available for needed rights-of-way." The 1995 Medford District Resource Management Plan incorporated the Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and the Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (Northwest Forest Plan) (USDA and USDI 1994).

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Sherman, et al.*, No. 08-1067-JCC (W.D. Wash.), granting Plaintiffs' motion for partial summary judgment and finding NEPA violations in the *Final Supplemental to the 2004 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (USDA and USDI, June 2007). In response parties entered into settlement negotiations in April 2010 and the Court filed approval of the resulting Settlement Agreement on July 6, 2011. Projects that are within the range of the northern spotted owl are subject to the survey and management standards and guidelines in the 2001 ROD, as modified by the 2011 Settlement Agreement. This project is not a habitat disturbing activity, as defined in page 22 of the Standards and Guidelines of the 2001 Record of Decision and Standards and Guidelines, for any Survey and Manage species. Because the project is not habitat disturbing, the Survey and Manage provisions, including pre-disturbance surveys, are not required (Standards and Guidelines, p. 7, 21-22).

CATEGORICAL EXCLUSION REVIEW

Department of the Interior Regulations (43 CFR § 46.205(c)) require that any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances listed in 43 CFR § 46.215. An action would meet one of the extraordinary circumstances if the action may:

- | <u>Yes</u> | <u>No</u> | <u>Categorical Exclusion Exception</u> |
|------------|-----------|---|
| () | (X) | 1. Have significant adverse effects on public health or safety. |
| () | (X) | 2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resource; 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) | 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)] not already decided in an approved land use plan. |
| () | (X) | 4. Have highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. |
| () | (X) | 5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. |
| () | (X) | 6. Have a direct relationship to other actions with individually insignificant, but significant cumulative environmental effects. (40 CFR 1508.7 and 1508.25(a)). |
| () | (X) | 7. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places. |
| () | (X) | 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) | 9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. |
| () | (X) | 10. Have disproportionate significant adverse impacts on low income or minority populations (Executive Order 12898). |
| () | (X) | 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) | 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). |

COMPLIANCE WITH NEPA

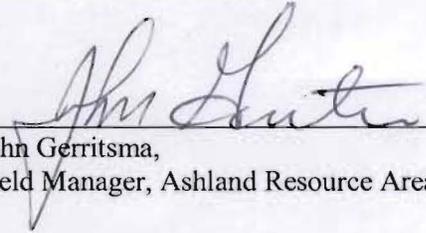
In accordance with 43 CFR §§ 46.205(c) and 46.215, the proposed action has been reviewed against the twelve criteria above and I have determined that none of the extraordinary circumstances described in 43 CFR § 46.205(c) apply to this project. The project qualifies as a categorical exclusion under 516 DM 11.9 E (16) which allows for the "issuance of leases, permits, or rights-of way for the use of existing facilities, improvements, or sites for the same or similar purposes" and under E (13) which allows for "amendments to existing rights-of-way which entail no additional disturbances outside the right-of-way boundary."

DOCUMENT PREPARATION AND REVIEW

<u>Dave Allen</u>	<u>O&C Right of Way Specialist</u>	<u>07/07/11</u>
Prepared by	Title	Date
<u>Kristi Mastrofini</u>	<u>Environmental Coordinator</u>	<u>9/1/11</u>
Reviewed & Edited by	Title	Date

DECISION

I have determined that the proposed action, which qualifies as a categorical exclusion under 516 DM 11.9 E (16) and E (13), involves no significant impact to the human environment and that no further environmental analysis is required. It is my decision to authorize the issuance of the O&C Logging Road Right-of-Way Permit No. M-5044 (OR 66755) to Meriwether Southern Oregon Land and Timber, LLC. Notice of this decision will be posted on the District internet website.



John Gerritsma,
Field Manager, Ashland Resource Area

9/1/11
Date

ADMINISTRATIVE REMEDIES

Notice of the decision to be made on the action described in this categorical exclusion will be posted on the Medford District Web site. This is a lands decision on a right-of-way action in accordance with BLM regulations under 43 CFR Part 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after this decision is signed) 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).