

## **DECISION RECORD & CATEGORICAL EXCLUSION REVIEW**

**Project Name:** Kawasaki Motors Corp. Filming      **(DOI-BLM-OR-M060-2011-0011-CX)**

**BLM Office:** Ashland R.A., Medford District      **Contact:** Chris Dent, 541-618-2454

### **DESCRIPTION & LOCATION OF THE PROPOSED ACTION:**

Kawasaki Motors Corporation (Kawasaki) is conducting a Press Introduction for a new Kawasaki All-Terrain-Vehicle (ATV). The Proposed Action is to issue a Land Use Permit (Form 2920-1) authorizing Kawasaki to allow representatives of media publications (ATV magazines, advertising.com's, etc.) to take still photographs of the ATV on BLM-administered roads and trails within the Timber Mountain Off-Highway Vehicle Management Area (see attached map). The BLM is evaluating the environmental effects and whether to issue Kawasaki a land use permit in a manner consistent with the Federal Land Policy and Management Act of 1976 (FLPMA). Film permits are issued under the authority of Section 302b of FLPMA, 1976 and in regulations 43 CFR 2920.

Kawasaki will facilitate a ride on the new ATV's with media members across existing BLM roads and trails on March 22<sup>nd</sup> through March 24<sup>th</sup>. During the rides, the media members will be allowed to photograph the ATV's in motion and in still settings. Staging for the Press Introduction (including briefings, lunches, and rides) will occur on private lands owned by the Motorcycle Riders Association (MRA). Each ride will be led by Kawasaki staff with a MRA member acting as a local guide. A maximum of 12 ATV's would be utilized in tandem traversing a series of existing roads and trails. Distance over varying road and trail surfaces, rather than speed, is the objective of the ride. The purpose of the photography is to allow media members the opportunity to capture the ATV's on film in a mountainous setting for promotional purposes in their respective publications.

Camera mounting will consist of hand-held and stationary tripod. No dollies, jib arms, or cranes will be used. The ATV's and riders will be the only props utilized for the photography.

Additional stipulations that will be attached to the permit include:

- All ATV's will have spark arrestors and not exceed the Oregon State noise requirement of 99dbs.
- No additional props (e.g. jumps, prefabricated obstacles) will be allowed to be placed on BLM-administered lands.
- ATV's will be restricted to existing trails maintained for Class I or Class II (50 inches or wider) and existing roads open to the public. No cross country travel or off trail riding will be allowed. No travel behind locked gates will be allowed.
- All ATV's and support vehicles will be cleaned of mud, debris, and vegetative matter prior to arriving for the permitted activity.

- BLM personnel will be present on both days of the ride to review and coordinate the planned route. Road and trails determined to be closed to the ride will be identified at that time.

## PLAN CONFORMANCE

The proposed action is 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). The 1995 Medford District Resource Management Plan was later amended by the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*. On July 25, 2007, the *Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl* amended the 1995 Medford District Resource Management Plan by removing the Survey and Manage Mitigation Measure Standards and Guidelines.

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Rey, et al.*, No. 08-1067 (W.D. Wash.) (Coughenour, J.), granting Plaintiffs' motion for partial summary judgment and finding a variety of NEPA violations in the BLM and USFS 2007 Record of Decision eliminating the Survey and Manage mitigation measure. Judge Coughenour deferred issuing a remedy in his December 17, 2009 order until further proceedings, and did not enjoin the BLM from proceeding with projects (including timber sales).

This project may proceed even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision. This is because this meets the provisions of the last valid Record of Decision, specifically the 200 I Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (not including subsequent Annual Species Reviews). 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 under the *2001 Record of Decision and Standards and Guidelines*, (Standards and Guidelines, p. 7, 21-22).

The proposed action is also 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, the Archaeological Resources Protection Act of 1979, and the National Historic Preservation Act of 1966 as Amended (NHPA).

## 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:

1. Have significant impacts on public health or safety.  
( )Yes ( **X** )No
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.  
( )Yes ( **X** )No
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].  
( )Yes ( **X** )No
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.  
( )Yes ( **X** )No
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.  
( )Yes ( **X** )No
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.  
( )Yes ( **X** )No
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 ( **X** )No
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 ( **X** )No
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.  
( )Yes ( **X** )No
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).  
( )Yes ( **X** )No
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 ( **X** )No

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).

( ) Yes ( X ) No

#### DOCUMENT PREPARATION AND REVIEW

Prepared by: Chris Dent, Outdoor Recreation Planner

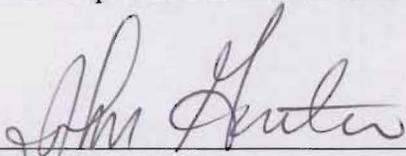
Reviewed by: Kristi Mastrofini, Environmental Coordinator

#### 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. This proposed action qualifies as a categorical exclusion under 516 DM 11.9, E (19) "Issuance of short-term (3 years or less) rights-of-way or land use authorizations".

#### DECISION

I have determined that the proposed action qualifies as a categorical exclusion, as described above under Compliance with NEPA, and 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 land use permit in accordance with 43 CFR 2920.2-2 to Kawasaki Motors Corporation as described in the proposed action.

  
\_\_\_\_\_  
John Gerritsma  
Field Manager

2/28/11  
\_\_\_\_\_  
Date

#### ADMINISTRATIVE REMEDIES/EFFECTIVE DATE OF DECISION:

Any person whose "legally cognizable interest" is adversely affected by this decision may appeal to the Board of Land Appeals under 43 CFR Part 4. In accordance with 43 CFR Subpart 2920.2-2, this decision is effective immediately and will remain in effect pending any appeal to the Interior Board of Land Appeals, unless a stay is granted under 43 CFR § 4.21(b).