Categorical Exclusion Determination and Decision Record for the issuance of an Amendment to the O&C Logging Road Reciprocal Right-of-Way Agreement and Permit M-2000D (OR 056842) DOI-BLM-OR-M050-2014-0007-CX

Location and Name of Applicant:
T. 33 S., R. 3W., Section 30
Medford District, Butte Falls Resource Area, Jackson County
HUC-Evans Creek (see Exhibit A Map attached)
Applicant: Juniper Properties LLC

Description of Proposed Action Including Purpose of Action:
The proposed federal action is the issuance of Amendment No. 1 to O&C Logging Road Right-of-Way Permit No. 2000D, (OR 056842 FD), held by Juniper Properties LLC, under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743. Utilization of the road would, by itself, not facilitate any ground-disturbing actions on federal lands. The amendment would not be a determining factor as to whether ground-disturbing actions would occur on private lands.

The amendment proposed action is to add existing BLM rights-of-way over private land for the purposes contained in the permit, which is “management and removal of timber and other forest products.”

The affected roads are located in Jackson County across private lands over which BLM controls the road through an O&C Road Use and Right-of-Way Agreement. The specific roads to be added are shown on the attached map labeled as Exhibit A – Amendment No. 1 (M-2000D).

The location of and identification of the specific U.S. rights-of-way over private land to be added by amendment and the term of the amendment is identified in the following table.

<table>
<thead>
<tr>
<th>Township</th>
<th>Range</th>
<th>Section</th>
<th>Subdivision</th>
<th>Road &amp; Segment No.</th>
<th>Easement No. or Right-of-Way Agreement No. &amp; Recording Info.</th>
<th>Length</th>
<th>Surf Type</th>
<th>Period of Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>33S</td>
<td>3W</td>
<td>30</td>
<td>M&amp;B Lot 1 (NW½NW¼), NE¼NE¼</td>
<td>33-3-30.1A</td>
<td>M-506</td>
<td>1,449 ft (0.27 mi)</td>
<td>Rock (ABC)</td>
<td>Perpetual</td>
</tr>
</tbody>
</table>
Utilization of the above roads to be added by amendment would not by itself facilitate any
ground-disturbing actions on federal lands. The amendment would not be a determining factor
as to whether ground-disturbing actions would occur on private lands.

Prior to haul Juniper Properties LLC will submit a request for terms and conditions of use.

**Plan Conformance Review**

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

  Plans of the western Oregon Bureau of Land Management and Record of Decision and
  Resource Management Plan for the Medford District* (EIS, 2008 and ROD/RMP, 2008);

- *Final Supplemental Environmental Impact Statement: Management of Port-Orford-
  Cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004);

  and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985); and

- *Final Supplemental Environmental Impact Statement and Record of Decision for
  Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer,

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

The proposed action is consistent with management direction in the Medford District Resource
Management Plan (USDI 2008, p. 41) that directs the BLM to “Provide needed rights-of-way,
permits, leases, and easements over BLM-administered lands in a manner that is consistent with
federal and state laws” (USDI 2008, p. 49).

**Categorical Exclusion Determination**

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."

Before any action described in the list of categorical exclusions may be used, the “extraordinary
circumstances,” included in the Code of Federal Regulations (CFR) at 43 CFR 46.205(c) must be
reviewed for applicability. After review, the BLM determined no extraordinary circumstances
exist that would cause the proposed action to have a significant environmental effect. The action
will not require additional analysis.
NEPA Categorical Exclusion Review

Proposed Action:

The proposed federal action is the issuance of an amendment No. 1 to O&C Logging Road Right-of-Way Permit No. 2000D, (OR 056842 FD), held by Juniper Properties LLC, under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743.

The Code of Federal Regulations at 43 CFR 46.205(c) requires that “any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances in section 46.215” (listed below). Additional analysis and environmental documents must be completed for any normally categorically excluded action which may:

1. **Have significant impacts on public health or safety.**
   - Yes ☐ No ☒
   - Initial ☐ Remarks:

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 ☒
   - Initial ☒ Remarks:

3. **Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].**
   - Yes ☐ No ☒
   - Initial ☐ Remarks:

4. **Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.**
   - Yes ☐ No ☒
   - Initial ☒ Remarks:

5. **Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.**
   - Yes ☐ No ☒
   - Initial ☒ Remarks:

6. **Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.**
   - Yes ☐ No ☒
   - Initial ☒ Remarks:

7. **Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.**
   - Yes ☐ No ☒
   - Initial ☒ Remarks:
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.

   Plants [ ] Yes [x] No Initial Remarks:
   Animals [ ] Yes [x] No Initial Remarks:
   Fish [ ] Yes [x] No Initial Remarks:

9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

   [ ] Yes [x] No Initial Remarks:

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

    [ ] Yes [x] No Initial Remarks:

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 Initial Remarks:

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 Initial Remarks:

Contact Person
For additional information concerning this project, contact Delbert Longbrake, Project Leader, at (541) 618-2329.

Prepared by:

Michelle Calvert, Environmental Planner
Medford District

Date: 5/9/14
Categorical Exclusion Reviewers:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date</th>
<th>Initials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michelle Calvert</td>
<td>NEPA Coordinator</td>
<td>5/9/14</td>
<td>mjc</td>
</tr>
<tr>
<td>Marcia Wineteer</td>
<td>Botanist</td>
<td>5/8/14</td>
<td>mw</td>
</tr>
<tr>
<td>Dave Roelofs</td>
<td>Wildlife Biologist</td>
<td>5/5/14</td>
<td>DR</td>
</tr>
<tr>
<td>Baker Holden</td>
<td>Fisheries Biologist</td>
<td>5/5/14</td>
<td>BH</td>
</tr>
<tr>
<td>Shawn Simpson</td>
<td>Hydrologist</td>
<td>5/5/14</td>
<td>SS</td>
</tr>
<tr>
<td>Amy Meredith</td>
<td>Soil Scientist</td>
<td>5/14</td>
<td>AM</td>
</tr>
<tr>
<td>Al Mason</td>
<td>Fire/Fuels Specialist</td>
<td>5/6/14</td>
<td>AM</td>
</tr>
<tr>
<td>Lisa Rice</td>
<td>Archaeologist</td>
<td>5/14</td>
<td>DR</td>
</tr>
<tr>
<td>Jeff Brown</td>
<td>Engineer</td>
<td>5/6/14</td>
<td>JB</td>
</tr>
<tr>
<td>Trish Lindaman</td>
<td>Outdoor Recreation Planner</td>
<td>5/5/14</td>
<td>D</td>
</tr>
<tr>
<td>Delbert Longbrake</td>
<td>Right-of-Way Specialist</td>
<td>5/8/14</td>
<td>DL</td>
</tr>
</tbody>
</table>

Contact Person
For additional information concerning this project, contact Delbert Longbrake, Project Leader, at (541) 618-2329.

Decision
It is my decision to issue an amendment to the O&C Logging Road Reciprocal Right-of-Way Agreement M-2000D (OR 056842) as described in the Proposed Action. Issuance of the amendment is desired for May 2014.

Decision Rationale
The proposed action has been reviewed by the Butte Falls Resource Area staff. 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.

[Signature]
Jennifer Sanborn, Acting Field Manager
Butte Falls Resource Area
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
MEDFORD INTERAGENCY OFFICE
3040 BIDDLE RD
MEDFORD, OR  97504

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 Juniper Properties LLC 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:

Jennifer Sanborn, Acting Field Manager, Butte Falls Resource Area
Medford Interagency Office
Bureau of Land Management
3040 Biddle Rd.
Medford, OR 97504
(541) 618-2260
Or Jean Williams (Butte Falls Resource Area Environmental Planner) at (541) 618-2385

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
  500 N.E. Multnomah Street, Suite 607
  Portland, Oregon 97232
Exhibit A. Map of the O&C Logging Road Reciprocal Right-of-Way Agreement (OR 56842)
## 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

<table>
<thead>
<tr>
<th>NOTICE OF APPEAL</th>
<th>WITH COPY TO</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Department of the Interior, Bureau of Land Management</td>
<td>SOLICITOR</td>
</tr>
<tr>
<td>Grants Pass Interagency Office</td>
<td>Office of the Regional Solicitor, Pacific Northwest Region</td>
</tr>
<tr>
<td>2164 NE Spalding</td>
<td>805 S.W. Broadway, Suite 680</td>
</tr>
<tr>
<td>Grants Pass, OR 97526</td>
<td>Portland, OR 97205</td>
</tr>
</tbody>
</table>

### 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).

### 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 serve 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 4.421). 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, 4.301.10 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)