

**U.S. DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MEDFORD DISTRICT OFFICE  
GRANTS PASS FIELD OFFICE  
2164 NE Spalding Ave  
Grants Pass, OR 97526**

**Categorical Exclusion Determination and Decision Record**

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**Morrison Right-of-Way Grant  
Serial No. OR 068505**

**DOI-BLM-OR-M070-2015-0026-CX**

**Project:** Right-of-Way Grant under Title V of the Federal Land Policy and Management Act (as Amended), P.L. 94-579.

**Location:** Medford District, Grants Pass Field Office, Josephine County. HUC-05 –Jumpoff Joe Creek fifth field watershed. The legal location is T35S-R6W- Section 5.

**Applicant:** Jean L. Morrison

**Description of Proposed Action**

The Proposed Action is to issue one Right-of-Way Grant (OR 068505) pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 USC 1761). The Right-of-Way (ROW) Grant area is on a portion of segment A of the Quartz Creek Road, an existing paved BLM road 35-6-8. A portion of the road is on BLM administered land and the other portion BLM has acquired an exclusive easement over. The owner will be using the road for ingress and egress to a private residential property in T35S-R6W-Section 8. The ROW Grant area is 10 feet wide by approximately 2,568 feet long and contains approximately 0.6 acres. Activities associated with the ROW include ingress and egress to the private residence. No ground disturbing activities or maintenance is requested. The ROW would be in compliance with the terms and conditions of Grant OR 068505 and any additional Project Design Features listed below. The ROW Grant is proposed for 30 years with the option for renewal.

**Project Design Features**

All activities associated with the use of the ROW would be in compliance with the terms and conditions of ROW Grant OR 068505. The Holder shall comply with applicable Federal and State laws and regulations.

**Plan Conformance Review**

The proposal 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) as amended

- *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (EIS, 1994 and RMP/ROD, 1995)
- *Final Supplemental Environmental Impact Statement: Management of Port-Orford-cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004)
- *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985)

### **Categorical Exclusion Determination**

The Proposed Action qualifies as a categorical exclusion under Department of The Interior Manual 516 DM 11.9, E (16) which 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” and 11.9, E (17).

Before any action described in the list of categorical exclusions may be used, the “extraordinary circumstances,” included in Code of Federal Regulations at 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.”

### **NEPA Categorical Exclusion Review**

1. *Have significant impacts on public health or safety.*

Yes      No

Remarks: All proposed activities follow established rules concerning health and safety.

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: The BLM has conducted this type of activity in the past with no significant impacts.

3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*

Yes      No

Remarks: There are no unresolved resource conflicts or controversial environmental effects.

4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*

Yes      No

Remarks: Past experience from this type of activity has shown no highly uncertain, potentially significant, unique or unknown risks.

5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*

Yes  No

Remarks: Similar actions have taken place on the Medford District and there is no evidence that this type of action would establish a precedent or decision for future action.

6. *Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*

Yes  No

Remarks: The BLM has conducted this type of activity in the past with no significant direct, indirect, or cumulative effects.

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: There are no listed or eligible historic places within the proposed ROW.

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  No

Remarks:

Animals Yes  No

Remarks:

Fish Yes  No

Remarks: The ROW occurs over an existing paved road. No ground disturbance or maintenance is proposed.

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

Yes  No

Remarks: The BLM has conducted this type of activity in the past. The proposed activities are not anticipated to violate any federal, state, local, or tribal laws or requirements for protecting the environment.

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

Yes  No

Remarks: Similar actions have taken place on the Medford District and there is no evidence that this type of action would have a disproportionately high or adverse effect on low income or minority populations.

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: No sacred sites have been identified by federally recognized Native American tribes.

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 No

Remarks: The activities involved within these project areas would not affect current populations of noxious weeds or increase the risk of introducing new sites.

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**Decision Record**

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**Proposed Action**

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**Decision and Rationale**

Based upon the attached Categorical Exclusion, it is my decision to provide ROW use by Jean L. Morrison as described in the Proposed Action.

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

**Administrative Review**

Administrative review of ROW decisions requiring 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 ROW 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)).

For additional information concerning this decision contact Grants Pass Field Office, Planning and Environmental Department, telephone (541) 471-6500, 2164 NE Spalding Avenue, Grants Pass, Oregon 97526.

### **Implementation Date**

This is a land decision on a ROW application. All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal (see 43 CFR § 2801.10) unless the Secretary of the Interior rules otherwise. ROW decisions that remain in effect pending an appeal are considered “in full force and effective immediately” upon issuance of a decision. Thus, this decision is now in effect.

### **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 (IBLA) 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 Authorized Officer in the Grants Pass Field Office by close of business (4:30 p.m.) not more than 30 days after the effective date. Only signed hard copies of a notice of appeal that are delivered to 2164 NE Spalding Ave, 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 IBLA under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed 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 (at the address listed above) and with the IBLA (at the address listed below) within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the IBLA 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:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant’s success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the IBLA and the Regional Solicitor (at the addresses listed below) at the same time such documents are served on the Authorized Officer 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.

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

**Appeal Format Requirements:** The following are some of the formatting requirements for an appeal. A document filed in a case before IBLA must, in general, be double spaced (43 CFR § 4.401(d)(2)(v)) and a Statement of Reasons may not be longer than 30 pages (43 CFR §§ 4.412(a) 4.414(b)(1)). Unless the IBLA orders otherwise, the text of a statement of reasons may not exceed 30 pages, excluding exhibits, declarations, or other attachments (43 CFR § 4.412(a)). See 43 CFR §§ 4.401, 4.412, and 4.414 for more detail and other formatting requirements.



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Allen Bollschweiler,  
Field Manager  
Grants Pass Resource Area

Date

9/17/15