

CATEGORICAL EXCLUSION REVIEW & DECISION RECORD

(DOI-BLM-OR-M060-2015-0013-CX)

Project Name: South Fork Little Butte (SFLB) Reciprocal Right-of-Way Agreement M-5066 (OR 067793PT) and O&C Logging Road Right-of-Way Permit M-5066 (OR 067793FD)

BLM Office: Ashland Resource Area, Medford District Office

Contact: Rik Arndt @ 541-618-2239

Location: United States roads administered by the Bureau of Land Management to be granted to the permittee are located in the SE¼NE¼, SE¼NW¼, SE¼ section 18, E½, SW¼ section 19, W½ section 21, E½ section 28, E½ section 30, NE¼ section 31, W½ section 32, E½NE¼ section 33, W½ section 34 in Township 37 South, Range 3 East and NW¼, NW¼SW¼ section 3, SE¼ section 4, S½ section 8, section 9, and section 17 in Township 38 South Range 3 East, Willamette Meridian, Jackson County, Oregon (Exhibit A). Ray Hilton's lands that are proposed to be included in the Reciprocal Right-of-Way Agreement are the N½NE¼, SW¼NE¼, NW¼SE¼ section 20, in Township 37 South, Range 3 East, Willamette Meridian, Jackson County, Oregon.

DESCRIPTION OF THE PROPOSED ACTION:

The Ashland Resource Area of the Medford District BLM proposes to enter into a Reciprocal Right-of-Way Agreement M-5066 (OR 067793PT) (Agreement) and O&C Logging Road Right-of-Way Permit M-5066 (OR 067793FD) (Permit) with a private land holder (permittee) under the provisions of 43 CFR Part 2812, and P.L. 94-579; 90 Stat 2743. The Agreement will provide the BLM with rights and obligations for the purpose of management and removal of timber and forest products from BLM-administered land through permittee lands in section 20 Township 37 South Range 3 East under terms and conditions of the Agreement. The Permittee will, if the Agreement/Permit is executed, have a perpetual right to use the BLM roads listed below for the purpose of management and removal of timber and forest products from Permittee lands in said section 20.

The Reciprocal Right-of-Way Agreement is designated M-5066 and serialized OR-067793PT. The rights granted to the United States, once the Agreement is executed will constitute a permanent encumbrance on the permittee lands. Under the standard terms and conditions of the Agreement, BLM will have access and use of the permittee lands for timber management and removal of forest products. The O&C Logging Road Right-of-Way Permit is designated M-5066 and serialized OR-067793FD. The Permit is personal and does not grant rights to future owners of the permittee's land until such rights are assigned as required by 43 CFR Part 2812. The permit will contain standard stipulations including the environmental stipulations set forth below. The permittee's land holds approximately 1,000 MBF of private timber that will haul over existing BLM roads listed in the Permit.

The following table identifies the BLM roads to be used, surface type of the road, and estimated timber volumes to be hauled over each road:

BLM Roads to be Used					
BLM Road and Segment No.	Seg. Length	Length to be Used	Present Surface Type	Estimated Timber Volume to be Hauled (MBF)	Estimated Mineral Volume to be Hauled (CY)
37-3E-21.0	0.51	0.51	NAT	1,000	0
38-3E-9.0	1.29	1.29	ASC	1,000	0
38-3E-17.0 C1	0.55	0.55	BST	1,000	0
38-3E-17.0 C2	1.05	1.05	BST	1,000	0
38-3E-17.0 D	2.22	2.22	BST	1,000	0
38-3E-17.0 E	1.11	1.11	BST	1,000	0
38-3E-17.0 F	2.67	2.67	BST	1,000	0

Terms and Conditions of the Permit will require the Permittee to:

- Request Terms and Conditions of Use.

Prior to using any road owned or controlled by the United States, the Permittee shall submit a request for terms and conditions of use in order for the United States to establish the road rules for such use. The request shall include, as a minimum: 1) the road Nos. and segments to be used; 2) the estimated period hauling will commence; 3) the estimated duration of the haul.

- Comply with Environmental Laws.

The Permittee must agree that in all operations under this permit, during the life of this permit he shall comply with:

A. All provisions of the State and Federal Water Quality Standards as they may apply to any waterway, stream, lake or reservoir, on or near the permit area, together with all applicable State and Federal laws and regulations. The Permittee shall also undertake every reasonable measure to minimize damage to waterways, streams, lakes or reservoirs on or near the permit area in connection with any operations under this permit.

B. All applicable state and federal laws and regulations concerning the use of poisonous substances including insecticides, herbicides, fungicides, rodenticides and other similar substances. Prior to the use of such substances on or near the right-of-way, the Permittee shall obtain from the Authorized Officer approval of a written plan for such use. The plan shall state the type and quantity of material to be used, the pest to be controlled, the method of application and such other information as the Authorized Officer may require. All use of such substances on or near the right-of-way shall be in accordance with the approved plan. If the use of a poison is prohibited by the Secretary of the Interior, it shall not be used. If use of a poisonous substance is limited by the Secretary of the Interior, it shall be used only in accordance with that limitation.

C. If in connection with his operations under this permit, across the lands of the

United States, the Permittee encounters or becomes aware of any objects or sites of cultural value, such as historical or pre-historical ruins, graves, grave markers, fossils or artifacts, the Permittee shall immediately suspend all operations in the vicinity of the cultural value and notify the Authorized Officer of the findings. The Permittee's operations may resume at the discovery site upon receipt of written instructions and authorization by the Authorized Officer.

D. All other applicable state and federal environmental laws, regulations and standards.

The Permittee shall immediately discontinue all construction or other operations under this permit upon receipt of written notice from the Authorized Officer that such operations or any part thereof are in violation on this provision.

Rebuttable Presumption of Abandonment. Failure of the Permittee to use any right-of-way for the purpose for which it was granted for any continuous five-year period shall constitute a rebuttable presumption of abandonment of that right-of-way.

Reservation for Compatible Uses. There is hereby reserved to the Secretary of the Interior or his lawful delegate the right to grant additional rights-of-way for compatible uses on, over, under or adjacent to the land involved in this grant.

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.

Use of the roads under the Permit is limited to Dry Weather Use generally from May 15 to October 15. This restriction could be waived by the authorized officer, in consultation with a watershed specialist, under dry conditions.

Permittee shall leave the road in as good of condition than what existed prior to use.

The Permittee agrees to comply with the following additional environmental and safety stipulations as required Project Design Features:

For Watershed Protection (Water Quality, Hydrological Functions, and Riparian Reserves):

- When maintaining inboard ditches, avoid blading and vegetation removal unless absolutely necessary.
- All soil disturbance associated with road drainage improvement shall be within the existing road right-of-way.
- All ground disturbances 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.
- Avoid blading and vegetation removal unless necessary to remove drainage impediments when maintaining inboard ditches. Control sediment by spreading weed free straw in ditchlines where ditchline blading is required within 100 feet of streams.
- No snow plowing shall occur on the gravel or native surface road segments.

To prevent the spread of noxious weeds:

- All equipment will be washed and free of mud or debris prior to entering BLM-managed lands.
- The permittee will only utilize the road prism for commercial hauling.

For the Protection of Special Status Species

- If den or rendezvous sites are discovered in the vicinity of the ROW restrictions may be placed on activities to avoid disturbance to gray wolves.

For the Protection of Cultural Resources:

- If, during project implementation, the contractor/workers encounters or becomes aware of any objects or sites of cultural value on federal lands, such as historical or pre-historical ruins, graves, grave markers, or artifacts, the contractor shall immediately suspend all operations in the vicinity of the cultural value and notify the Contracting Officer's Representative (COR). The project may be redesigned to protect the cultural resource values present, or evaluation and mitigation procedures would be implemented based on recommendations from the resource area archaeologist and concurrence by the Ashland Field Manager and State Historic Preservation Office.

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).

This project is consistent with 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*, as incorporated into the Medford District Resource Management Plan. This project utilizes the December 2003 Survey and Manage species list. This list incorporates species changes and removals made as a result of the 2001, 2002, and 2003 Annual Species Reviews (ASRs), with the exception of the red tree vole.

The proposed action is consistent with BLM Manual 6840 (USDI 2008), the purpose of which is to provide policy and guidance for the conservation of BLM Special Status species and the ecosystems upon which they depend on BLM-administered lands. BLM Special Status species include those species listed or proposed for listing under the Endangered Species Act (ESA), as well as those designated as Bureau Sensitive by the State Director(s). The objectives of the BLM Special Status policy are:

To conserve and/or recover ESA-listed species and the ecosystems on which they depend so that ESA protections are no longer needed for these species; and to initiate proactive conservation¹ measures that reduces or eliminates threats to Bureau Sensitive species to minimize the likelihood of and need for listing of these species under the ESA (USDI 2008: section 0.02).

This decision 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 National Environmental Policy Act of 1969 (NEPA), the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986

¹ **Conservation:** as applied to Bureau sensitive species, is the use of programs, plans, and management practices to reduce or eliminate threats affecting the status of the species, or improve the condition of the species' habitat on BLM-administered lands (USDI 2008, Glossary p. 2).

and 1996), Clean Air Act of 1990, the National Historic Preservation Act of 1966 as amended, and the Archaeological Resources Protection Act of 1979.

NEPA CATEGORICAL EXCLUSION REVIEW

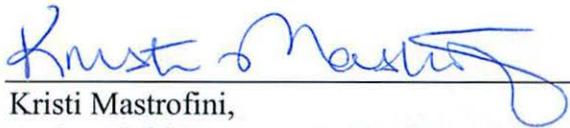
Department of the Interior Regulations 43 CFR § 46.205 (c) require that any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances found at 43 CFR § 46.215. The Code of Federal Regulations at 43 CFR § 46.215 provide for a review of the following criteria for categorical exclusion to determine if exceptions apply to the Proposed Action based on actions which may:

CX Extraordinary Circumstances Documentation	Yes	No
1. Have significant impacts on public health or safety.		X
Rationale: Proposed activities will follow established rules concerning health and safety, including Federal and State Occupational Safety and Health Administration rules.		
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.		X
Rationale: The project is not located in any park, recreation, or refuge lands; wilderness areas, wild or scenic rivers; national natural landmarks; or national monuments. Projects would not be implemented in prime farmlands, wetlands, or ecologically significant or critical areas. The BLM resource area archaeologist reviewed the project and will conduct cultural surveys as necessary prior to implementation. All eligible or potentially eligible sites within the proposed area will be flagged for protection prior to project implementation.		
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		X
Rationale: Based on past experience from these types of activities, there are no predicted environmental effects from the Proposed Action that are considered to be highly controversial nor are there unresolved conflicts concerning alternative uses. This project's Categorical Exclusion Authority allows for the removal of dead and dying trees not to exceed 250 acres. Land use allocations and goals for the affected lands were established and analyzed under the ROD/RMP and the corresponding environmental impact statement.		
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
Rationale: The activities proposed in this CX are long-standing practices on BLM-administered lands. The BLM interdisciplinary team of resource specialists reviewed this project and determined there are no highly uncertain, potentially significant, unique, or unknown risks.		

CX Extraordinary Circumstances Documentation	Yes	No
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
Rationale: The activities proposed in this CX are addressed and authorized under the 1995 Medford ROD/RMP. This project will implement decisions made in that land use plan. The proposed activities are widely used on federal lands throughout Oregon and there is no evidence this type of project would establish a precedent or decision for future actions that would have significant environmental effects.		
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
Rationale: The Proposed Action is to grant a reciprocal right-of-way and logging haul permit to an adjacent private landowner. The BLM interdisciplinary team reviewed the project and incorporated PDFs into the project design to minimize any potential impacts to resources and prevent off-site effects that would contribute to the cumulative effects of other projects in the area. The interdisciplinary team determined that the project would not result in a cumulative significant effect when added to relevant past, present, and reasonably foreseeable actions in the area.		
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.		X
Rationale: There are no historic properties located within the projects APE. Project Design Features (PDFs) have been incorporated into the NEPA document, providing protection for any inadvertent discoveries found during project implementation.		
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
Rationale: Areas proposed for treatment have been reviewed by the BLM botanist, wildlife biologist, and fisheries biologist. Where appropriate, PDFs have been incorporated into the project to protect listed, or proposed to be listed species and their habitats. Appropriate buffers and seasonal restrictions will be implemented to avoid any adverse effects to threatened or endangered species or designated critical habitat.		
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
Rationale: The proposed activities conform to Medford RMPs' direction for management of public lands in the Medford District and comply with applicable laws, rules, and regulations.		
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
Rationale: Similar actions have occurred throughout the District and there is no evidence that this type of project would have a disproportionately high and adverse effect on said 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 130007).		X

DECISION

I have determined that the proposed action, which qualifies as a categorical exclusion under 516 DM 11.9 E (16), 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 Reciprocal Right-of-Way Agreement and O&C Logging Road Right-of-Way Permit No. M-5066 (OR 067793PT and OR 067793FD), to the private land owner. Notice of this decision will be posted on the District internet website.



Kristi Mastrofini,
Acting Field Manager, Ashland Resource Area

7/14/15

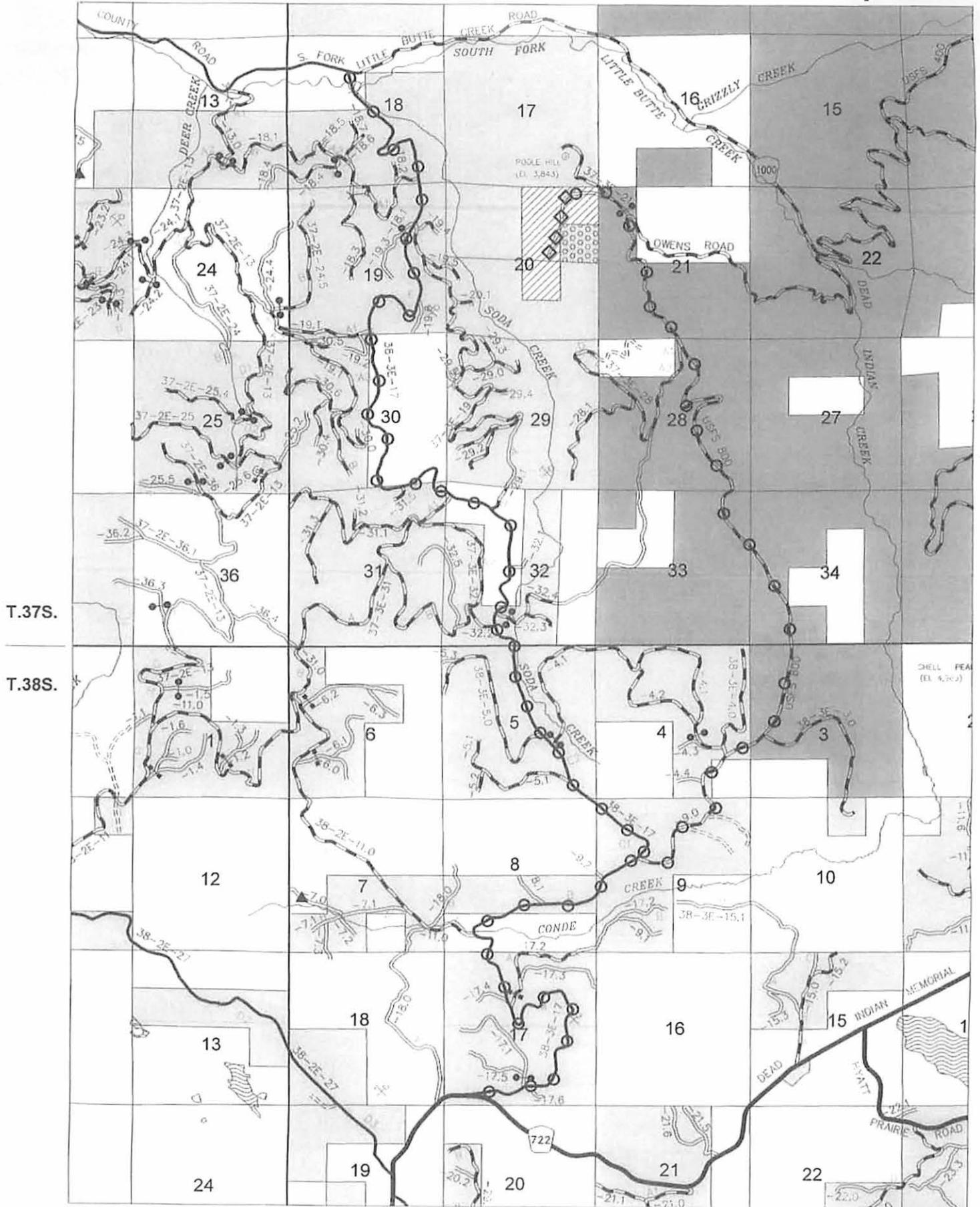
Date

ADMINISTRATIVE REMEDIES

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).

R.2E. | R.3E.

M-5066 Reciprocal



T.37S.

T.38S.



-  PVT Haul Route
-  Haul Route
-  BLM lands

-  FS lands
-  Ray Hilton lands
-  BLM lands to be included

T.37S., R.3E., Section 20 W.M.
Jackson County, OR

