

## **Categorical Exclusion Determination and Decision Record for Jackson County Free Use Permit at Reese Creek Quarry DOI-BLM-OR-M050-2012-0001-CX**

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### **Description of Proposed Action**

The Medford District Bureau of Land Management, Butte Falls Resource Area (BLM) proposes to renew a Free Use Permit for the removal of rock to Jackson County. Jackson County is currently using the Reese Creek quarry under a Free Use Permit that will expire in 2012. The permit renewal would be for an additional 10 years.

The renewal would allow Jackson County to remove up to 200,000 cubic yards of quarry rock from within the permit boundaries of the BLM's portion of the Reese Creek Quarry (Map 1). The quarry rock would be used for Jackson County projects.

The Reese Creek Quarry is located off the Butte Falls Highway (County Road 821) in the NE¼ of section 7, Township 35 South, Range 1 East in Jackson County, Oregon. Include fifth field watershed. The quarry is in the Shady Cove/Rogue River fifth field watershed.

### **Plan Conformance Review**

The BLM completed a revision of the Resource Management Plans for Western Oregon Districts in December 2008. The Secretary of the Interior administratively withdrew the 2008 Records of Decision/Resource Management Plans (ROD/RMP) in July 2009 and the districts reverted to implementing the 1995 ROD/RMPs. In March 2011, the United States District Court for the District of Columbia vacated and remanded the administrative withdrawal of the western Oregon BLM District's 2008 ROD/RMPs (*Douglas Timber Operators et al. v. Salazar*) and effectively reinstated the 2008 ROD/RMPs. Given the uncertainty surrounding planning in western Oregon, the Medford District will design projects to conform to the 2008 ROD/RMP and the 1995 ROD/RMP. Consequently, projects will be consistent with the goals and objectives in the 1995 and 2008 ROD/RMPs.

This proposal is consistent with management direction in the Medford District 1995 ROD/RMP (p. 76) that directs the BLM to "Provide opportunities for extraction of saleable minerals by the BLM, other government entities, private industry, individuals, and nonprofit organizations."

This proposal is consistent with management direction in the Medford District 2008 ROD/RMP (p. 45) that directs the BLM to "Utilize new and existing quarry and pit sites to provide economical sources of rock and aggregate."

The proposed action was designed to be consistent with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937, Federal Land Policy and Management Act of 1976, Endangered Species Act of 1973, Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act of 1990 (as amended), Archaeological Resources Protection Act of 1979, and BLM mineral materials disposal regulations at 43 Code of Federal Regulations (CFR) 3600.

## Project Design Features

- All quarry operations as granted by this permit will be in strict accordance with the quarry plan submitted by the Jackson County Department of Public Works (County), dated November 2011, and all Department of Geology and Mineral Industries (DOGMI) requirements and stipulations.
- Prior to any vegetation clearing, the County will contact the Medford BLM with 2-year advanced notice to accommodate any needed surveys.
- Rock removal will be in sequential order, as depicted on the 2011 map. Area 1 shall be used first, including developing down into the quarry floor. Area 1 shall have no more than 125 feet of overburden cleared toward the west at a time, unless special permission is obtained from the BLM. Then areas 2, 3, and 4 shall be used. However, if the County needs the quality of rock found in areas 2, 3, or 4 (and it is not obtainable in area 1), these areas can be developed with permission from the BLM.
- Quarry faces shall be developed as shown on the 2011 map (Map 1).
- The quarry floor will be contoured to provide adequate drainage as shown on the 2011 map (Map 1).
- No overburden shall be cleared until rock presently exposed is used (unless areas 2, 3, or 4 are needed for higher quality rock, as stated above).
- The BLM reserves the right to remove rock and oversize from the site.
- The County shall report the amount of rock ripped/blasted from the quarry walls at the end of each calendar. Send information to BLM, Geology, 3040 Biddle Road, Medford, OR 97504, phone 541-618-2200.
- The County shall control noxious weeds at the site.
- No storage of asphalt or trash will occur on BLM lands.
- The overburden stockpile shall be seeded with weed-free grass.
- The access to the top of area 1 shall be water barred, as needed.
- All fencing and fence maintenance along the BLM permit boundary line shall be at the expense of the County and the County will accept all liability. The County shall be responsible for fence maintenance until site reclamation has been approved by the BLM and DOGMI.
- All state regulations, including fire regulations, shall be followed. The purchaser shall comply with local and State Safety Codes covering quarrying operations, warning signs, and traffic control.
- An operating permit from DOGMI shall be obtained when necessary and a copy forwarded to the BLM.
- If any archeological resources are found at any time, operations will be halted and the Medford District Manager notified. Operations will begin only after approval of an archeological recovery program by the Medford District Manager.

- If any threatened or endangered species are identified on the site, operations will begin only after the Medford District Manager has approved a protection plan.

### **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.9. This section allows for *Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.*

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

### **Contact Person**

For additional information concerning this project, contact Diane Parry, Project Leader, at 541-618-2353.

**NEPA Categorical Exclusion Review****Proposed Action:**

Authorize renewal of a 10-year Free Use Permit (Permit number OR47847) to Jackson County for removal of up to 200,000 cubic yards of rock from the Reese Creek quarry.

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 DS 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 DS 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 DS Remarks:

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

Yes  No

Initial DS 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 DS Remarks:

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

Yes  No

Initial DS 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 *JB*  
Initial *JB* 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  No Initial *mw* Remarks: *2 year surveys required for expansion*  
Animals  Yes  No Initial *D.R.* Remarks:  
Fish  Yes  No Initial *D.R.* Remarks:

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

Yes  No  
Initial *JB* Remarks:

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

Yes  No  
Initial *JB* 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  No  
Initial *RW* 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).

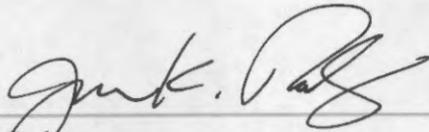
Yes  No *if county continues to treat noxious weed populations*  
Initial *mw* Remarks:

## Decision

It is my decision to authorize the renewal of a 10-year Free Use Permit (Permit number OR47847) to Jackson County for removal of up to 200,000 cubic yards of rock from the Reese Creek quarry, as described in the Proposed Action.

## Decision Rationale

The proposed action has been reviewed by Butte Falls Resource Area staff and the Medford District Geologist; appropriate Project Design Features, as specified above, will be incorporated into the proposal. Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the human environment and no further environmental analysis is required.



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Jon K. Raby  
Field Manager  
Butte Falls Resource Area

1/9/12  
Date

## Administrative Review or Appeal Opportunities

Notice of the mineral materials decision to be made on the action described in this categorical exclusion will be published on the Medford District planning Web site. According to Title 43 of the Code of Federal Regulations section 3601.80, if a BLM decision adversely affects you, you may appeal the decision in accordance with parts 4 and 1840 of this title.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file a petition pursuant to regulation 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal.

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 (see 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 regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

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

**Categorical Exclusion Reviewers:**

Name	Title	Date	Initials
Robyn Wicks	NEPA Coordinator	1/5/12	RW
Marcia Wineteer	Botanist	11/15/11	mw
Dave Roelofs	Wildlife Biologist	11/14/11	D.R.
Dale Johnson	District Fisheries Biologist	12/12/11	DJ
Shawn Simpson	Hydrologist	12/13/11	SS
Amy Meredith	Soil Scientist	10/17/11	AM
Al Mason	Fire/Fuels Specialist	11/14/11	AM
Lisa Brennan	Archaeologist	11/21/11	LB
<del>Randy Bryan</del>	Engineer LEO KALVELS	1/5/12	LK
Trish Lindaman	Outdoor Recreation Planner	12-9-11	TL
Diane Parry	District Geologist	11.18.11	DP

