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

Categorical Exclusion Determination and Decision Record
PacifiCorp Overhead Electrical Line Right-of-Way OR 68390 Renewal

DOI-BLM-OR-M070-2015-0020-CX

A. Background

Description of Proposed Action

The Proposed Action is to renew a pre-FLPMA Right-of-Way (ROW) grant for an existing overhead electrical line currently authorized as ROW Grant ORE 15420 pursuant to 43 USC 961, "Rights-of-way for power and communications facilities." The post-FLPMA ROW grant would be authorized as OR 68390. The grant request is for a 50 year term.

The proposed project is located in Josephine County along Oregon Caves Highway, southeast of Cave Junction in the vicinity of Grayback Campground. The legal description is Township 39 South, Range 7 West, Section 25, Willamette Meridian, Josephine County, Oregon.

The ROW includes a 12.5 kV overhead electrical distribution line serving local residences along Oregon Caves Highway. The ROW is 20 feet wide, approximately 1,622 feet long, and contains approximately 0.74 acres. All activities associated with maintaining the ROW would be in compliance with the terms and conditions of ROW grant OR 68390 and any additional Project Design Features listed below.

The ROW is parallel to, but does not cross over Sucker Creek. Sucker Creek is Designated Critical Habitat for Southern Oregon/Northern California Coast Coho Salmon, and is infested with the Port-Orford-cedar root disease, *Phytophthora lateralis*. The Project Design Features listed below, and Grant Terms and Conditions will minimize impacts to fish and Port-Orford-cedar.

Project Design Features:

The power line is already built so no construction activities are planned. However, the ROW would give the holder permission to conduct maintenance activities on the distribution line. All activities associated with the operation, use, and maintenance of the ROW would be in compliance with the terms and conditions of ROW Grant OR 68390. The Holder shall comply with applicable Federal and State laws and regulations concerning the use of pesticides, insecticides, herbicides, fungicides, rodenticides, etc. The Holder shall submit a written plan of

operation and receive written approval of said plan from the BLM Authorized Officer prior to the use of said substances. PDFs include:

- Maintenance of the access route would be limited to mowing and cutting of brush encroaching on the ROW access route to be completed by the grant holder.

- Wash equipment including undercarriages prior to entry onto BLM-administered lands to remove mud, dirt, and plant parts. Washing shall occur with a pressure washer or at a facility with an undercarriage wash. The water must come from a clean source, as Sucker Creek is infested with *Phytophthora lateralis* and should not be drafted from. Wash water shall not drain into streams.

- Any rock used to maintain the ROW must be weed free and must be free of *Phytophthora lateralis*.

- Due to the proximity to Sucker Creek, any excavation to replace power poles will utilize silt fences to contain sediment from spoils. Silt fences must be maintained and effective during the temporary storage of soil and removed when soil is stabilized by vegetation. Specifics for design, installation and removal will be described in the written work schedule.

- BLM would be notified if cultural resources are found on BLM managed lands during the maintenance of the ROW grant power lines. The Grants Pass Field Office Archaeologist and Field Manager would assess the appropriate actions to take to ensure significant sites are protected in consultation with the State Historic Preservation Office and interested federally recognized Tribes.

- Any additional stipulations spelled out in the ROW Grant Terms and Conditions.

B. Plan Conformance Review

This 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),
- *Final SEIS for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (2000), *and the ROD and Standards and Guidelines for Amendment to the Survey & Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* (2001),
- *Medford District Integrated Weed Management Plan Environmental Assessment (1998*) and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985).

C. Compliance with NEPA

The proposed action qualifies as a categorical exclusion under Department of Interior Manual 516 DM 2 Appendix 4, E (9) "Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations," and (11) "Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA Section 302(b) leases where no new facilities or other changes are needed."

These categorical exclusions are appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM Appendix 5 apply.

D. NEPA Categorical Exclusion Review

Extraordinary circumstances (CFR § 46.215) provides for a review of the following criteria for Categorical Exclusion to determine if exceptions apply to the Proposed Action based on actions which may:

1. *Have significant adverse effect 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 authorized 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.*
   ( ) Yes (√) No
   Remarks: Past experience from this type of activity has shown to have no highly controversial environmental effects or result in unresolved conflicts to resources.

4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental effects.*
   ( ) 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 authorized 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 sites on the National Register of Historic Places within the Proposed Action area.

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 (√) No
   Remarks: The project will have no impacts on listed wildlife species or any species proposed for listing. The activities proposed in this project have no impact on listed plant species or proposed threatened or endangered species or have an impact on designated Critical Habitat.

9. *Violate a Federal law, or a State, local, or Tribal law or requirement imposed for the protection of the environment.*
   ( ) Yes (√) No
   Remarks: This project does not violate Federal, State, local or Tribal law or any requirement for the protection of 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 traditional use areas or sacred sites have been identified within the Project Area; no known ceremonial or religious sites will be affected by proposed project activities.

12. *Contribute to the introduction, continued existence, or spread of noxious weeds or non-native 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 the Proposed Action would not affect current populations of noxious weeds or increase the risk of introducing new sites.

Reviewers:

Botany	6-12-15 Date	Wildlife	6-12-15 Date
Fisheries	6-12-15 Date	Engineering	6/15/15 Date
Cultural Resources	6/12/15 Date	Soils/Hydrology	6/22/15 Date
Planning Coordinator/NEPA	6/22/2015 Date		

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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 renew ROW Grant OR 68390 (formerly designated as pre-FLPMA ORE 15420) 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 in the attached Categorical Exclusion, are 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 right-of-way (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 Ferris Fisher, Planning and Environmental Coordinator, telephone (541) 471-6639, 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 the 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

PacifiCorp
Property Management – attn Deanna Adams
825 NE Multnomah St., Suite 1700
Portland, OR 97232

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.

6/25/15

Allen Bollschweiler,
Field Manager
Grants Pass Field Office

Date