

U.S. DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MEDFORD DISTRICT OFFICE  
GLENDALE RESOURCE AREA

**Categorical Exclusion Determination and Decision Record for  
the issuance of a  
Right-of-Way Grant under Title V of the Federal Land Policy and Management Act  
(as Amended), P.L. 94-579, and the regulations at 43 CFR 2800  
Serial No. OR 65395  
CE-OR-118-08-015**

**Location of Right-of-Way and Name of Applicant:**

T. 34 S., R. 5 W., Section(s): 17,  
Medford District, Glendale Resource Area, Josephine County  
HUC-6, Grave Creek/Placer (see Exhibit A Map attached).  
Applicant: Robert (Bob) Sessler

**Description of Proposed Action**

The proposed action is the issuance of right-of-way grant to Robert (Bob) Sessler (applicant), under the provisions at 43 CFR Part 2800, and Title V of P.L. 94-579; 90 Stat 2743. This has been serialized as case No. OR 65395.

The requested period of use is for a term of 20 years.

The proposed action includes the use and maintenance of an existing water facility consisting of a small in-stream rock "dam" (diversion point) lined with plastic sheeting and an above ground 1 ½ inch ABS pipe water line. The dam and the water line are on BLM managed land. The water right-of-way would be 5 ft by approximately 350 feet (0.04 acres) across BLM land it enters the applicant's private land. The system has been in place for many years and is used for domestic and irrigation use (0.005 cubic feet per second) by Mr. Sessler who resides on the private parcel in T 34S., R 5W., Section 17.

Upon grant termination by the Authorized Officer, all improvements would be removed from public land within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the Authorized Officer.

The holder would perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

The water pipelines are to be maintained in good condition through the life of this grant by the requester. The pipeline would be marked by staking the ground every 25 feet and each stake would extend at least one foot above ground.

The proposed water line grant is shown on the attached map labeled as Exhibit A.

**Project Design Features**

- Any maintenance to the in-stream rock dam would occur during the in-stream work period (June 15 to Aug 31). Alteration of the water facility or use outside the boundaries of the right-of-way is not authorized.

- All excess plastic material currently protruding from the top of the rock dam would be removed within 30 days of the execution of the right-of-way grant.
- This right-of-way would be subject to modification, adaptation, or discontinuation if it would be found by the Authorized Officer to be necessary, without liability or expense to the United States, so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the United State.
- The United States would not be liable for any damage which may occur to the improvements authorized by this grant, as a result of its management of the Public Lands, including, but not limited to construction, reconstruction, and maintenance of the roads and harvest of timber.
- The United States would not guarantee the quantity, quality, or purity of the water used by the Holder. The United States would not be held liable for damage or deterioration of the water supply which may result from natural causes or activities of the United States.

## Plan Conformance Review

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

- the *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);
- the *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (EIS, 1994 and RMP/ROD, 1995);
- the *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)
- Final Supplement to the 2004 *Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage Mitigation Measure Standards and Guidelines* (FSEIS, 2007 and ROD, 2007).<sup>1</sup>

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 1986 and 1996), Clean Air Act, and the Archaeological Resources Protection Act of 1979.

This proposed action is consistent with management direction in the Medford District Resource Management Plan that directs the BLM to continue to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans, Oregon state-wide planning goals and rules, and the exclusion and avoidance areas identified in the Resource Management Plan (USDI 1995, p. 82).

## 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 516 DM 2, Appendix 2, must be reviewed for applicability (See attached review). 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.



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  
GRANTS PASS INTERAGENCY OFFICE  
2164 NE Spalding  
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 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 Joe Hoppe 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:

Katrina Symons, Field Manager, Glendale Resource Area  
Grants Pass Interagency Office  
Bureau of Land Management  
2164 NE Spalding  
Grants Pass, OR 97526  
(541)471-6653  
Or Michelle Calvert (Glendale Resource Area Environmental Planner) at (541)471-6505

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  
805 S.W. Broadway, Suite 600  
Portland, Oregon 97205
- Robert (Bob) Sessler  
P.O. Box 234  
Merlin, OR 97532

Attachments:

Exhibit A Map  
Form 1842-1

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**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**

<b>1. NOTICE OF APPEAL</b> .....	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 <i>Notice of Appeal</i> 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 <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
<b>2. WHERE TO FILE</b>	
NOTICE OF APPEAL.....	U.S. Department of the Interior, Bureau of Land Management Grants Pass Interagency Office 2164 NE Spalding Grants Pass, OR 97526
WITH COPY TO SOLICITOR.....	U.S. Department of the Interior Office of the Regional Solicitor, Pacific Northwest Region 805 S.W. Broadway, Suite 600 Portland, OR 97205
<b>3. STATEMENT OF REASONS</b>	Within 30 days after filing the <i>Notice of Appeal</i> , 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 <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR.....	U.S. Department of the Interior Office of the Regional Solicitor, Pacific Northwest Region 805 S.W. Broadway, Suite 600 Portland, OR 97205
<b>4. ADVERSE PARTIES</b> .....	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 be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
<b>5. PROOF OF SERVICE</b> .....	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)).
<b>6. REQUEST FOR STAY</b> .....	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 <i>Notice of Appeal</i> (43 CFR 4.21). 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 <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 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 <i>Notice of Appeal</i> and Petition for a Stay <b>must</b> 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.  <b>Standards for Obtaining a Stay.</b> 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.

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(Form 1842-1, September 2006)

## NEPA Categorical Exclusion Review

**Proposed Action:** The proposed use includes an existing water facility consisting of a small in-stream rock “dam” (diversion point) and an above ground water line. The dam and the water line are on BLM land. The line crosses approximately 350 feet of public land before going onto private land owned by the applicant. The system has been in place for many years and is used both as a domestic water source and irrigation by Mr. Sessler who resides on the private parcel in T 34S., R 5W., Section 17.

Department of the Interior Manual 516 DM 2, Appendix 2 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 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 resource;, 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: No unique geographical characteristics are within the project area or affected by this project.

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

Yes     No

( ) Remarks: Based on past experience from this type of activity, there are no predicted environmental effects from the proposed action which are considered to be highly controversial nor are there unresolved conflicts concerning alternative uses. Similar work has been completed on the Medford BLM District.

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 throughout the district and there is no evidence that this type of project 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: No eligible or listed properties are affected.

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: Threatened or Endangered plant sites have not been in this vicinity, and would not be affected.

Animals Yes No

Remarks: No effect to spotted owls, suitable habitat, or critical habitat. Not in the range of Marbled murrelet. No effect to fisher (Candidate species).

Fish Yes No

Remarks: Southern Oregon Northern California coho salmon (Federally listed as threatened) is present downstream of the proposed action (approximately 2.0 miles in Grave Creek). No effects to coho or coho critical habitat are expected as a result of the proposed action because there are no anadromous bearing streams located within section 17.

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 proposed project would not violate federal law such as the Clean Water Act, Endangered Species Act.

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 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 13007).*

Yes No

( ) Remarks: No such sites have been identified within the location of the proposed water line grant site.

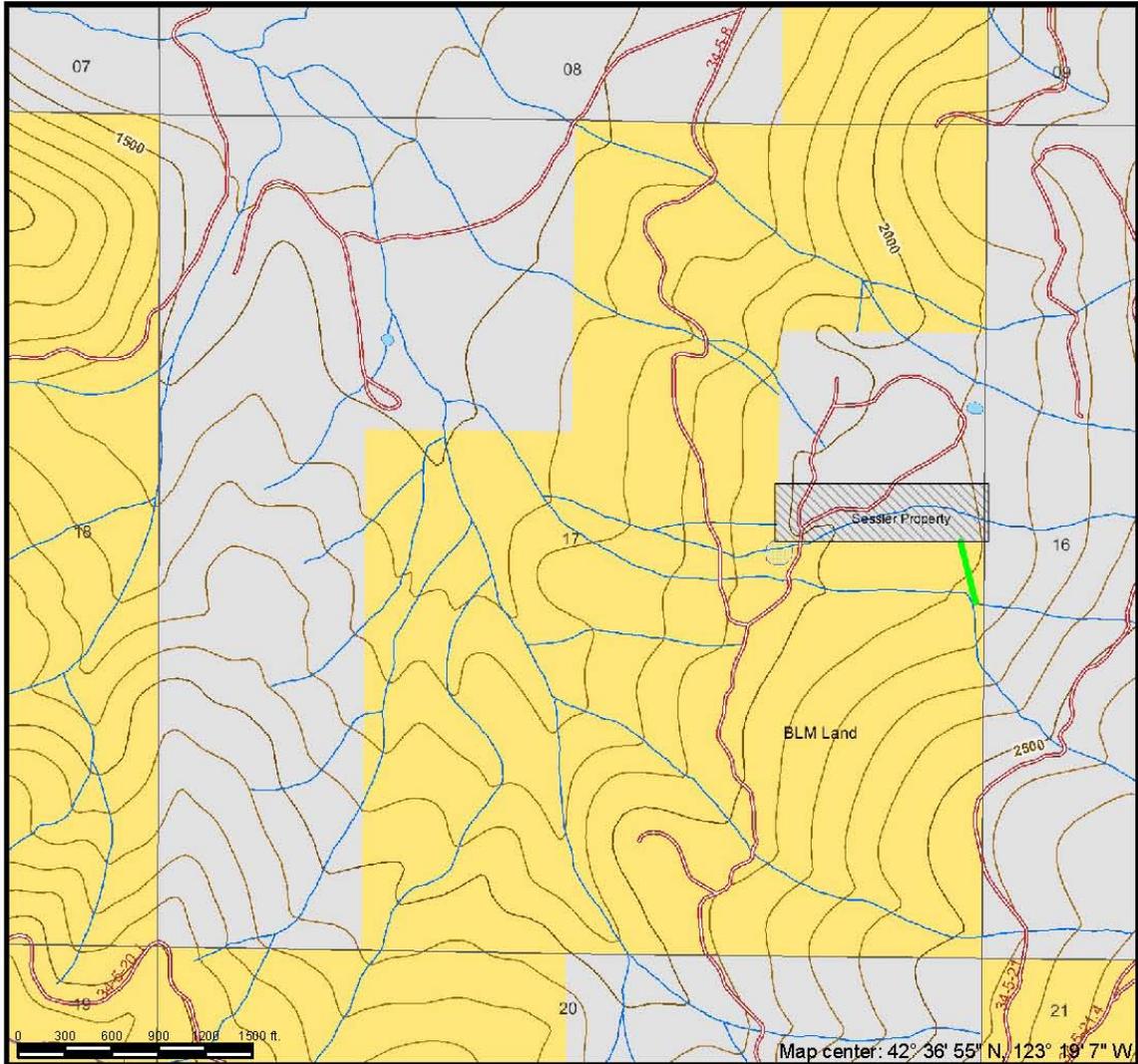
12. *Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).*

Yes No

( ) Remarks: The proposed activities outlined in this CE would not be responsible for spreading noxious weeds because the water line is an existing structure with no additional actions.

# Sessler - OR 065395

T34S - R5W Sec17



- |                             |          |                             |
|-----------------------------|----------|-----------------------------|
| Forest Operations Inventory | Non BLM  | Highways                    |
| TPCC                        | Lakes    | Roads                       |
| Township and Range          | Streams  | Trails                      |
| Sections                    | Wetlands | proposed water right-of-way |



Internal Use Only



United States Department of the Interior  
Bureau of Land Management  
Medford District Office  
3040 Biddle Road  
Medford, OR 97504

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[http://web.maps.or.blm.gov/foi\\_section](http://web.maps.or.blm.gov/foi_section)

**Scale 1:12,000**  
Universal Transverse Mercator  
Zone 10, North American Datum of 1983



