

UNITED STATES OF AMERICA
DEPARTMENT OF INTERIEOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE

CATEGORICAL EXCLUSION DETERMINATION AND DECISION RECORD
Artbeats Filming on the Rogue River

DOI-BLM-OR-M070-2011-0013-CX

A. Background

Proposed Action Title: Artbeats Filming on the Rogue River

Location of Proposed Action: Recreation Section of the Rogue National Wild and Scenic River. The legal description is Township (T) 35 South (S), Range (R) 7 West (W), Section 4-6, 9-11; T35S-R8W-Section 1; and T34S-R8W-Section 36.

Land Use Allocations: The project is within the designated Wild and Scenic Rogue River. The Outstandingly Remarkable Values for this river segment are fish, recreation, and scenery. The river segment's classification is recreational under the Wild and Scenic River system.

Proposal: Artbeats (a filming company) is proposing to use a video camera to film the scenery along the Rogue River beginning at the Hog Creek boat landing and ending at the Galice Resort. The BLM evaluated the environmental effects and whether to issue Artbeats, Inc. a land use permit in a manner consistent with the Federal Land Policy and Management Act of 1976 (FLPMA). Film permits are issued under the authority of Section 302b of the FLPMA, 1976 and in regulations in 43 CFR 2920.

No sets, props or talent is planned. A total of 4-5 people would be riding in a raft. Filming would be done in one day for the purpose of collecting stock footage of scenery and wildlife as seen from a raft.

B. Plan Conformance

The Proposed Action is consistent with the Medford District's 1995 Record of Decision (ROD) and Resource Management Plan (RMP) and 2008 ROD/RMP. Following the March 31, 2011 decision by the United States District Court for the District of Columbia in Douglas Timber Operators et al. v. Salazar, which vacated and remanded the administrative withdrawal of the Medford District's 2008 ROD and RMP, we evaluated this project for consistency with both the 1995 RMP and the 2008 ROD and RMP. Based upon this review, the Proposed Action contains some design features not mentioned specifically in the 2008 ROD and RMP. The 2008 ROD and RMP did not preclude use of these design features, and the use of these design features is clearly consistent with the goals and objectives in the 2008 ROD and RMP. Accordingly, this project is consistent with the Medford District's 1995 RMP and the 2008 ROD/RMP.

The Proposed Action is consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Medford District Resource Management Plan.

C. Compliance with NEPA

The Proposal qualifies as a categorical exclusion as provided in the United States Department of the Interior Code of Federal Regulations (CFR) (43CFR 46). Subsection 46.210 (j) states “Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public”. The Proposed Action also qualifies as a categorical exclusion under Department of 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”.

D. NEPA Categorical Exclusion Review

Title 43, Section 46.205(c) of the Code of Federal Regulations (CFR) requires the review of this action to determine if any of the following “extraordinary circumstances” (found at 43 CFR 46.215) would apply. If any of the extraordinary circumstances apply, then an otherwise categorically excluded action would require additional analysis and environmental documentation.

1. *Have significant impacts on public health or safety.*
()Yes (**X**)No
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 (**X**)No

Remarks: Although the activity would occur within the Recreation Section of the Rogue National Wild and Scenic River, the activity would essentially be the same as other recreational activities that occur daily within the corridor.
3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*
()Yes (**X**)No
4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*
()Yes (**X**)No
5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*
()Yes (**X**)No
6. *Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*
()Yes (**X**)No
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 (**X**)No

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
9. *Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.*
Yes No
10. *Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).*
Yes No
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
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

Attachment:

Map

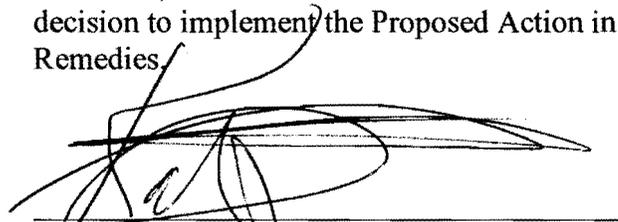
**U.S. DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT**

**NEPA CATEGORICAL EXCLUSION DECISION DOCUMENTATION
Artbeats Filming on the Rogue River**

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Decision and Rationale: Based upon the attached Categorical Exclusion, it is my decision to authorize the land use permit for Artbeats, Inc. as described in the Proposed Action.

In addition, I have reviewed the plan conformance statement and have determined that the Proposal is in accordance with the approved land use plan and that no further environmental analysis is required. Therefore, an environmental assessment or an environmental impact statement is not needed. It is my decision to implement the Proposed Action in accordance with 43 CFR Part 4 –Administrative Remedies.



Katrina Symons, Field Manager
Grants Pass Resource Area

9/13/11
Date

ADMINISTRATIVE REMEDIES

Administrative review of right-of-way decisions requiring National Environmental Policy Act (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 right-of-way 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)).

EFFECTIVE DATE OF DECISION

This is a land decision on a land use permit in accordance with BLM regulations at 43 CFR Subpart 2920. All BLM decisions under 43 CFR Subpart 2920.2-2 8(b) “Permit decisions made under paragraph (a) of this section take effect immediately upon execution and remain in effect during the period of time specified in the decision to issue the permit. Any person whose interest is adversely affected by a decision to grant or deny a permit under paragraph (a) of this section may appeal to the Board of Land Appeals under part 4 of this title. However, decisions and permits issued under paragraph (a) of this section will remain in effect until stayed.

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 (Board) 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 officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after the date of service. Faxed or e-mailed appeals will not be considered. Only signed hard copies of a notice of appeal that are delivered to the Grants Pass Field Manager 2164 NE Spalding Avenue, Grants Pass, OR 97526, will be accepted

In addition to the applicant, in order to qualify as an appellant, a “party to the case,” you have the burden of showing possession of a “legally cognizable interest” that has a substantial likelihood of injury from the decision. (See 43 CFR § 4.410(d)). 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 the applicant Artbeats, Inc., 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.

Or For additional information concerning this project, contact Martin Lew, Environmental Planner, at (541) 471-6504.

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
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232
- Artbeats, Inc.
1405 N Myrtle Road
Myrtle Creek, OR 97457

