

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

**Categorical Exclusion Determination and Decision Record
for Communication Use Lease to be Issued
Under Title V of the Federal Land Policy and Management Act
(Case Serial No. OR 66538)
DOI-BLM-OR-M080-2011-001-CX**

Project: Cedar Springs Communication Building and Tower Installation

Date: May 27, 2011

Location: Glendale Resource Area, legal description is T32S-R4W-Section 25.

Land Use Allocations: Late-Successional Reserve (LSR)

Description of Proposed Action

The proposed action is the issuance of communication use lease to the Oregon Department of Forestry (ODF), under the provisions of 43 CFR Part 2800, and Title V of P.L. 94-579; 90 Stat 2743. This has been serialized as case No. OR 66538.

The requested period of lease is for a term of 25 years.

The proposed federal action is to authorize the Oregon Department of Forestry (ODF) to construct, operate, and maintain an 80 foot metal tower and an 8 ft by 13 ft communications building at the Cedar Springs Communication Site. The proposed location provides the optimum view of the landscape due to its elevation and centralized location. Installation and operation of an Automated Smoke Detection System (ASDS) and Automate Vehicle Locator System (AVL) would also be a part of this action (see the attached maps). The facilities would be used by the Douglas Forest Protection Association (DFPA), U.S. Forest Service, and the Bureau of Land Management. The project is funded by the Secure Rural Schools Act (Title II).

The proposed ASDS would add needed fire detection coverage to federal and private forest lands in the Upper Cow Creek drainage. All landowners would benefit substantially from improved detection times, extended detection hours and would benefit both public and firefighter safety. This system would enhance the DFPA's fire protection system, resulting in: fewer acres burned, decreased firefighter exposure, and ultimately decreasing resource loss & cost to BLM & other landowners.

There is an existing metal tower and communication shelter at this site. The existing communication building would be removed as it no longer meets health and safety standards.

The proposed activities would establish a lease on the summit of Cedar Springs Mountain which is approximately 2 acres to authorize the construction, operation, and maintenance of a building site communication equipment and tower at the existing Cedar Springs Communication Site. The location of the property is shown generally on the site plan dated September 1986 for the Cedar Springs

Communications Site which is attached and made part hereof as Exhibit A of the lease. The facilities specifically authorized under this lease are shown on the plat contained in Exhibit B of the lease.

Approximately 9 cubic yards of rock would be excavated for the footings for the new communication building and tower. The excavation for the footings would be approximately 25 ft x 25 ft for the new communication building and approximately 16 ft x 10 ft for the new tower. The excavated material would be placed on the road surface of the natural surface road 32-4-25.2 that accesses the communication site. Tower construction would begin in May 2011 or as snow melt permits.

The affected land is located in Douglas County on BLM land administered by the Glendale Resource Area. The proposed communication use lease location is shown on the attached map.

Plan Conformance Review

This proposal is consistent with policy directed by the following:

The Medford District initiated planning and design for this project to conform and be consistent with the Medford District's 1995 Resource Management Plan (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 selected alternative 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 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 where consistent with local comprehensive plans" (USDI 1995:82). 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). The 1995 Medford District Resource Management Plan was later amended by 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*. This project is also consistent with the *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985).

The Proposed Action 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.

The Medford District BLM is also aware of the District Court's March 31, 2011 decision to vacate and remand the Secretary of the Interior's July 16, 2009 decision to withdraw the Western Oregon Plan Revisions ROD. This proposed communication use lease also complies with direction provided under the 2008 Western Oregon Plan Revision Record of Decision and Resource Management Plan, to "provide needed rights-of-way, permits, leases, and easements over BLM-administered lands" (USDI 2008: 49).

Categorical Exclusion Determination

This proposed action qualifies as a categorical exclusion as provided in United States Department of the Interior Departmental Manual 516 DM 2.3A (2), Appendix 1.7, 516 DM 11.9 E (13); 516 DM 11.9 J (8); and 516 DM 11.9 G (2).

Appendix 1.7 – *Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity.*

11.9 E (13) – *Amendments to existing rights-of-way, such as the upgrading of existing facilities, which entail no additional disturbances outside of the right-of-way boundary.*

11.9 J (8) – *Installation of minor devices to protect human life (e.g. grates across mines).*

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.

NEPA Categorical Exclusion Review

Proposed Action:

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:

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: The proposed tower and building site would be erected on a previously disturbed communication site. No significant impacts were identified by Glendale Resource Area natural resource specialists.

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

Yes No

Remarks:

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

Yes No

Remarks: There are no environmental effects or risks that are highly uncertain and potentially significant that have been identified in previous activities similar to the proposal.

5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*

Yes No

Remarks: No potentially significant environmental effects were identified by Glendale Resource Area natural resource specialists.

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

Yes No

Remarks: The ground disturbance would be limited within a 200 ft diameter that includes the existing communications building and tower.

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 sites have been identified.

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:

Animals Yes No Remarks:

Fish Yes No Remarks:

Remarks: The erection of the fire detection tower and communication building would have no effect on federally listed wildlife or fishery species. Construction of the communications building and erection of the tower would not affect T&E fish species since site is located near a ridge and there is no hydrologic connection to fish bearing streams. There are also no Oregon Coast coho and Southern Oregon Northern California coho salmon or coho critical habitat (CCH) is not present or adjacent to the proposed installation site since it is located near a ridge.

No northern spotted owls are located adjacent to the site, and no habitat would be affected.

The project site is out of the range of *Fritillaria gentneri* (T&E), and as such there are no anticipated effects resulting from this project. Surveys were completed in the spring of 2005, and no *Fritillaria gentneri* were located. Surveys did reveal a Bureau Sensitive plant, *Lewisia leana*, which was documented approximately 500 feet downslope of the proposed project site. However, this project's ground disturbing activities are relegated to an area which has already been disturbed, and no plants were located immediately adjacent (within 100 feet) to the outermost confines of construction diameter. In other words, although this project is in the general vicinity of *L. leana*, ground disturbance will only occur within an area of prior disturbance, and will not affect *L. leana* and trend this species toward listing.

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 tower or communication building placement.

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 as the proposed construction activities would be limited within a 200 ft diameter that includes the existing Cedar Springs communication site and tower. Traffic would also be limited to administrative access. Botanical surveys were completed in 2005, which did not reveal any noxious weed sites.

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NEPA CATEGORICAL EXCLUSION DECISION DOCUMENTATION

DESCRIPTION OF ACTION

The proposed federal action is to authorize a communication use lease to construct, operate, and maintain another communication site and tower at the existing Cedar Springs Communication Site. The communication use lease would include the summit of Cedar Springs Mountain (approximately 2 acres).

DECISION AND RATIONALE

It is my decision to authorize the communication use lease serial No. OR 66538 as described in the Proposed Action. Tower construction is anticipated to begin in early May 2011 or as snow melt permits.

The proposed action has been reviewed by the Glendale Resource Area staff. Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the environment and no further environmental analysis is required.

ADMINISTRATIVE REMEDIES

Administrative review of lease 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 communication lease application. All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal (See 43 CFR § 2801.10) unless the Secretary rules otherwise. Lease decisions that remain in effect pending an appeal are considered as "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 (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. Only signed hard copies of a notice of appeal that are delivered to:

*BUREAU OF LAND MANAGEMENT
GRANTS PASS INTERAGENCY OFFICE
Glendale Resource Area
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 and the Regional Solicitor 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

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

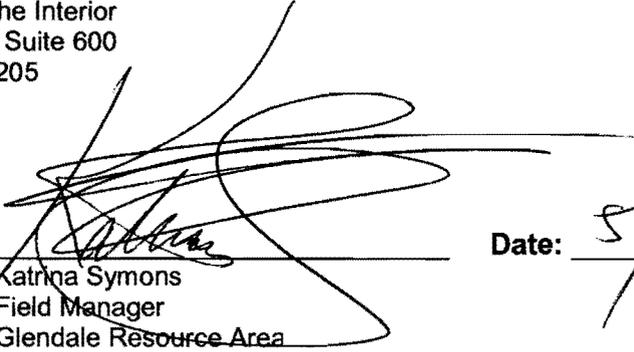
Or

Michelle Calvert, Glendale Resource Area Environmental Planner, at (541) 471-6505

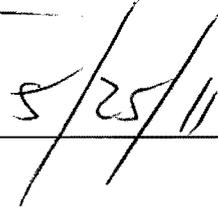
Additional contact addresses include:

- 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

Authorized Official: _____


Katrina Symons
Field Manager
Glendale Resource Area

Date: _____



CEDAR SPRINGS A.S.D.S. & COMMUNITICATIONS SITE

5050

Communication Use Lease Location

New 80 ft free Standing Metal Tower

Existing Metal Tower

Existing Communications Shelter

New 8' x 13' Communications Building

Access Rd 32-4-25.2

