

DECISION RECORD & CATEGORICAL EXCLUSION REVIEW

(DOI-BLM-OR-M060-2012-0020-CX)

Project Name: Right Fork Foots Road Right-of-Way (OR 55123)

BLM Office: Ashland R.A., Medford District. **Contact:** Juanita Wright (541) 618-2345

DESCRIPTION & LOCATION OF THE PROPOSED ACTION:

The Ashland Resource Area of the Medford District Bureau of Land Management (BLM) proposes to assign an existing right-of-way grant to a private landowner who has requested the re-assignment for use of an existing road across BLM in the SE ¼ NW ¼ of Section 22, T37S, R4W. The ROW will provide the applicant with legal access (ingress and egress) to his private property and to facilitate public utilities. A previous Categorical Exclusion (CE) and Decision Record (DR) were completed in 1999 to issue a 30-year right-of-way (DR attached). This proposal is consistent with those document including the existing terms and conditions of the existing right-of-way grant.

The Federal Land management Policy Act (Title V section 501) grants the BLM authority to grant, issue, or renew rights-of-way over, upon, under, or through such lands for roads.

PLAN CONFORMANCE

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.” 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 proposed action is also 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 (2001 ROD), as modified by the 2011 Settlement Agreement. This project is not a habitat disturbing activity, as defined in page 22 of the Standards and Guidelines of the 2001 Record of Decision and Standards and Guidelines, for any Survey and Manage species. Because the project is not habitat disturbing, the Survey and Manage provisions, including pre-disturbance surveys, are not required (Standards and Guidelines, p. 7, 21-22).

The proposed action is also 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, the Archaeological Resources Protection Act of 1979, and the National Historic Preservation Act of 1966 as Amended (NHPA).

CATEGORICAL EXCLUSION REVIEW

Department of the Interior Regulations (43 CFR § 46.205(c)) require that any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances listed in 43 CFR § 46.215. An action would meet one of the extraordinary circumstances if the action may:

- | <u>Yes</u> | <u>No</u> | <u>Categorical Exclusion Exception</u> |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 1. Have significant adverse effects on public health or safety. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)] not already decided in an approved land use plan. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 4. Have highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. Have a direct relationship to other actions with individually insignificant, but significant cumulative environmental effects. (40 CFR 1508.7 and 1508.25(a)). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 10. Have disproportionate significant adverse impacts on low income or minority populations (Executive Order 12898). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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). |

COMPLIANCE WITH NEPA

In accordance with 43 CFR §§ 46.205(c) and 46.215, the proposed action has been reviewed against the twelve criteria above and I have determined that none of the extraordinary circumstances described in 43 CFR § 46.205(c) apply to this project. The project qualifies as a categorical exclusion under 516 DM 11.9, E (16) which allows for the *“issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.”*

DOCUMENT PREPARATION AND REVIEW

Ted Hass

Assistant Field Manager

6-06-2012

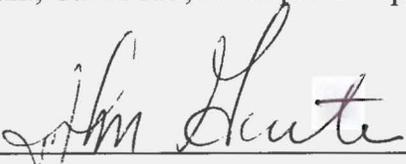
Name

Title

Date

DECISION

I have determined that the proposed action qualifies as a categorical exclusion under 516 DM 11.9, E (16) and involves no significant impact to the human environment and that no further environmental analysis is required. It is my decision to authorize the assignment and issuance of the requested right-of-way grant, OR 55123, to the private applicant as described above in the Proposed Action.



6-6-12

John Gerritsma,
Field Manager, Ashland Resource Area

Date

ADMINISTRATIVE REMEDIES

Notice of this decision will be posted on the District internet website. In accordance with 43 CFR 2801.10, this decision is in effect immediately and will remain in effect pending any appeal to the Interior Board of Land Appeals under 43 CFR Part 4, unless a stay is granted under 43 CFR § 4.21(b).

CATEGORICAL EXCLUSION/DECISION RECORD

FOR

Michael D. Matthews Right-of-Way, OR 55123

CATEGORICAL EXCLUSION DETERMINATION/PLAN CONFORMANCE/RATIONALE:

Based on the categorical exclusions review and other considerations I find that the proposed action involves no significant impact to the human environment. This action meets the criteria for a categorical exclusion in Departmental Manual 516 DM 6, appendix 5, Section (5.4 E. (16)-existing facilities or improvements). None of the exceptions in 516 DM 6, appendix 2 apply. Further, the action is in conformance with the Medford District Resource Management Plan.

DECISION

The decision is to issue a 30-year right-of-way to Michael D. Matthews for ingress and egress to private property over an existing road across public land located in Section 22, Township 37 South, Range 4 West, Willamette Meridian. The BLM portion of the road provides access to the ~~Middle~~ Fork Fooths Creek Road, a County owned and maintained road.
Right

The grant will be made under the authority of Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) and be subject to the terms and conditions in 43 CFR 2801 and rental payments as determined by 43 CFR 2803.1-2.

The grant is subject to the mitigation set forth as special stipulations or as identified by the applicant.


Ashland Field Manager

8-5-99
Date