

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

**Categorical Exclusion Determination and Decision Record for
The Issuance of an
O&C Logging Road Right-of-Way Permit No. M-5033(OR 066300)
To the Purchaser of a Josephine County Timber Sale
DOI-BLM-OR-M070-2010-0016-CX**

Location and Name of Applicant:

T. 34 S., R. 6 W., Section: 30

Medford District, Grants Pass Resource Area, Josephine County

HUC-6: Upper Rogue-Grants Pass, #171003080401 (see Exhibit A Map attached)

Applicant: Josephine County Department of Forestry

Background

Under the terms of the Memorandum of Understanding between the United States, Bureau of Land Management, Medford District and Josephine County, dated May 3, 1990, when Josephine County wishes to use BLM roads, the County shall submit their timber sale plan to the BLM and the BLM will determine if it has objections to the County's planned action. When there are no objections, the BLM shall furnish to the County a partially completed O&C Logging Road Right-of-Way permit which will be issued to the successful timber sale purchaser. This partially completed permit contains the terms and conditions for which the purchaser must comply. Upon award of the timber sale, the BLM will issue the permit to the successful purchaser. This document assesses the impacts of the permit to be issued to the successful purchaser.

Description of Proposed Action:

Josephine County Dept. of Forestry is planning their Section 30 timber sale to be offered in April of 2010. The proposed action is the issuance of an O&C Logging Road Right-of-Way Permit to the purchaser of Josephine County's timber sale, under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743.

This permit has been designated as Permit No. M-5033 (OR 066300). The requested period of use is for 3 years, with the possibility of one-year extensions at the discretion of the Authorized Officer. The permit will allow commercial hauling of approximately 600 thousand board feet (MBF) of private timber over existing U.S. roads. Utilization of these roads would, by itself, not facilitate any ground-disturbing actions on federal lands. The permit would not be a determining factor as to whether ground-disturbing actions would occur on private lands.

The area to be harvested is identified as:

Area to Be Harvested			
T.	R.	Sec.	Subdivision
34 S	6 W	30	SW ¹ / ₄

The following table identifies the BLM roads to be used, estimated timber and/or mineral volumes to be hauled over each road and the anticipated haul periods:

BLM Roads to be Used						
BLM Road and Segment No.	Segment Length	Length to be Used	Present Surface Type	Haul Period	Estimated Timber Volume to be Hauled (MBF)	Estimated Mineral Volume to be Hauled (CY)
34-6-19.03	0.76	0.17	PRR	Summer 10	100	0
34-7-25.03	3.08	0.95	PRR	Summer 10	500	0
35-6-08.00A,B	3.60	3.55	BST	Summer 10	600	0

The haul route and affect roads are located in Josephine County on BLM lands in the matrix land allocation administered by the Grants Pass Resource Area. The specific roads to be used and area to be harvested are shown in the tables above, and on the attached map labeled as Exhibit A.

Project Design Features

Permittee agrees to comply with the following environmental stipulations:

- A. All provisions of the State and Federal Water Quality Standards as they may apply to any waterway, stream, lake, or reservoir on or near the permit area together with all applicable State and Federal laws and regulations. The Permittee shall also undertake every reasonable measure to minimize damage to waterways, streams, lakes, or reservoirs on or near the permit area in connection with any operation under this permit.
- B. All applicable State and Federal laws and regulations concerning the use of poisonous substances, including insecticides, herbicides, fungicides, rodenticides, and other similar substances.
- C. All other applicable State and Federal environmental laws, regulations, and standards.
- D. All ground disturbing equipment shall be washed prior to transport onto BLM lands to reduce the chance of spread of noxious weeds.
- E. The Permittee shall discontinue hauling and other operations under this permit upon written notice of the Authorized Officer that such operations are in violation of this provision.

ADDITIONAL TERMS, CONDITIONS, AND STIPULATIONS

G-1 - Insurance and Bond Requirements:

The Permittee shall maintain comprehensive liability insurance covering all operations, including vehicles, of the Permittee under this permit in amounts not to exceed the following whenever it exercises any of the rights granted by this permit: (a) Bodily injury, \$1,000,000.00 - for injury to any on person; \$1,000,000.00 - for any one occurrence; and (b) Loggers Property Damage Form B (or commercial liability insurance), \$1,000,000.00 - for any one occurrence. When the authorized Officer notifies the Permittee of the requirement for insurance, the Permittee shall deliver within one week to the United States a certificate from the insurer stating that such insurance is in force and that the insurer will give the United States ten (10) days' notice prior to CE & Dec Record for O&C Unilateral Permit No. M-5033

any cancellation or modification of such insurance. Permittee shall furnish a performance bond in an amount not less than \$2,500.00 in favor of the United States, conditioned upon faithful performance of the terms and conditions of this permit. It is understood that the amounts of the bond and insurance required herein shall be reviewed periodically and that the parties may mutually agree upon such adjustment as is required to comply and conform to general insurance practices of the timber industry in effect at the time of review.

G-2 - May be Amended

This permit may be amended to include additional rights for the Permittee over existing roads controlled by the United States or over roads controlled by third parties limited to land identified as "United States Lands" on the attached Exhibit A map. However, approval of such amendment shall be subject to all regulations and laws current at the time of application.

G-5 – Use of Herbicides

The use of herbicides is prohibited along roads that cross U.S. lands administered by the Bureau of Land Management.

RU-1 - Notification of Periods of Non Use

Before beginning hauling under the terms of this permit for the first time, or after a shutdown of thirty (30) or more days, the Permittee shall notify the Authorized Officer in writing of the date he/she plans to begin operations. The Permittee shall also notify the Authorized Officer in writing if he/she intends to cease operations for any period of thirty (30) or more days. Such written notification may be made by notation on Form OR 2812-6, Report of Road Use.

RU-2 Verification of Final Volume

The Authorized Officer may conduct a final report of volume verification by comparing the total volume reported to the Bureau of Land Management with other state or federal agencies. The Permittee will be asked to account for any difference.

RU-3 - Stop Activities in Case of Damage

The Bureau of Land Management reserves the right to stop any or all activities authorized under this Permit when the Authorized Officer determines that damage to the road or environment may occur or is anticipated.

RU-4 - Roads Limited to Dry Weather Use

Use of all natural, ASG and GRR surface roads is prohibited between the periods of October 15th to May 15th without the written permission of the Authorized Officer.

RU-5 - Landings, Yarding and Condition of Roads During Use

No landings shall be located within 25 feet of the road and no yarding shall be allowed in the road. Permittee shall keep the roadway and ditches clear of logging debris. The Permittee is responsible for all damages beyond normal maintenance as determined by the Authorized Officer of the Bureau of Land Management. The Permittee agrees to repair damages to the satisfaction of the Authorized Officer or to reimburse the Bureau of Land Management for repair of such damages. The road(s) must be open for travel at all times without the written permission of the Authorized Officer.

The Permittee shall, to the satisfaction of the Authorized Officer, clean up landings and areas on BLM land where equipment has been operated or repaired and shall remove, or otherwise dispose of in a legal manner, all garbage, temporary buildings, trash, litter or other refuse

resulting from the Permittee's operations including fuel containers, oil cans, and discarded equipment or parts thereof.

TE-1 - Threatened or Endangered Species

The Permittee shall immediately discontinue specified use upon receipt of written notice from the Authorized Officer that:

- a) Threatened or endangered plants or animals protected under the Endangered Species Act of 1973, as amended, may be affected by the operation and a determination is made that consultation or reinitiation of consultation is required concerning the species prior to continuing operations; or
- b) Federal proposed, federal candidate, Bureau sensitive or State listed species protected under BLM Manual 6840 - Special Status Species Management - have been discovered and a determination is made that continued operations would adversely affect the species or its habitat.

Discontinued operations may be resumed upon receipt of written instructions from the Authorized Officer.

HM -1 –Hazmat

The Right-of-way Holder may not release any hazardous substances or hazardous wastes (as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the right-of-way area. The Right-of-way Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substances or hazardous wastes.

CL -1 –Cultural

If in connection with any operations within the right-of-way area, the Right-of-way Holder, its agents or contractors, encounters or becomes aware of any objects or sites of cultural value, such as historical or pre-historical ruins, graves, grave markers, fossils or artifacts, the Right-of-way Holder, its agents or contractors, shall immediately suspend all operations in the vicinity of the cultural value and notify the Authorized Officer of the Bureau of Land Management of the findings within 24 hours. Operations of the Right-of-way Holder, its agents or contractors, may resume at the discovery site upon receipt of written instructions and authorization from the Authorized Officer.

Plan Conformance Review

This EA tiers to or is consistent with the following documents:

1. *Final EIS/ROD for the Medford District Resource Management Plan (RMP) (1995)*
2. *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);*
3. *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)*
4. *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon (FSEIS 2004 and ROD 2004);*

5. *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 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."

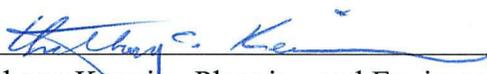
Title 43, Section 46.205(c) of the Code of Federal Regulations (CFR) requires the review of this action to determine if any of the "extraordinary circumstances" found at 43 CFR 46.215 would apply. If any of the extraordinary circumstances apply, then an otherwise categorically excluded action would require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

The proposed action has been reviewed to determine if extraordinary circumstances exist that would require further environmental analysis and documentation. None have been identified (see attached review).

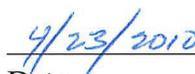
Contact Person

For additional information concerning this project, contact Dave Allen Project Leader, at 541-618-2472.

Prepared / reviewed by:



Anthony Kerwin, Planning and Environmental Coordinator
Grants Pass Resource Area



Date

Decision

It is my decision to authorize O&C Logging Road Right-of-Way Permit No. M-5033 (serial No. OR 066300) as described in the Proposed Action. The project is planned for implementation Summer 2010.

Decision Rationale

The proposed action has been reviewed by the Grants Pass Resource Area staff and appropriate Project Design Features, as specified above, will be incorporated into the proposal. Based on the CE & Dec Record for O&C Unilateral Permit No. M-5033

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.



Abbie Jossie, Field Manager
Grants Pass Resource Area

4-23-2010
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 lands decision on a right-of-way action in accordance with BLM regulations at 43 CFR Subpart 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after the date of service) where no petition for a stay is filed, or 45 days after the expiration of the appeal period where a timely petition for a stay is filed, unless the Director of the Office of Hearings and Appeals or an Appeals Board has determined otherwise in accordance with specified standards enumerated in 43 CFR 4.21(b).

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 the following address will be accepted. Faxed or e-mailed appeals will not be considered.

*BUREAU OF LAND MANAGEMENT
GRANTS PASS INTERAGENCY OFFICE
2164 NE Spalding
Grants Pass, OR 97526*

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 Josephine County Department of Forestry 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:

Abbie Jossie, Field Manager, Grants Pass Resource Area
Grants Pass Interagency Office
Bureau of Land Management
2164 NE Spalding
Grants Pass, OR 97526
541-471-6652

Or Tony Kerwin (Grants Pass Resource Area Environmental Planner) at 541-471-6564

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

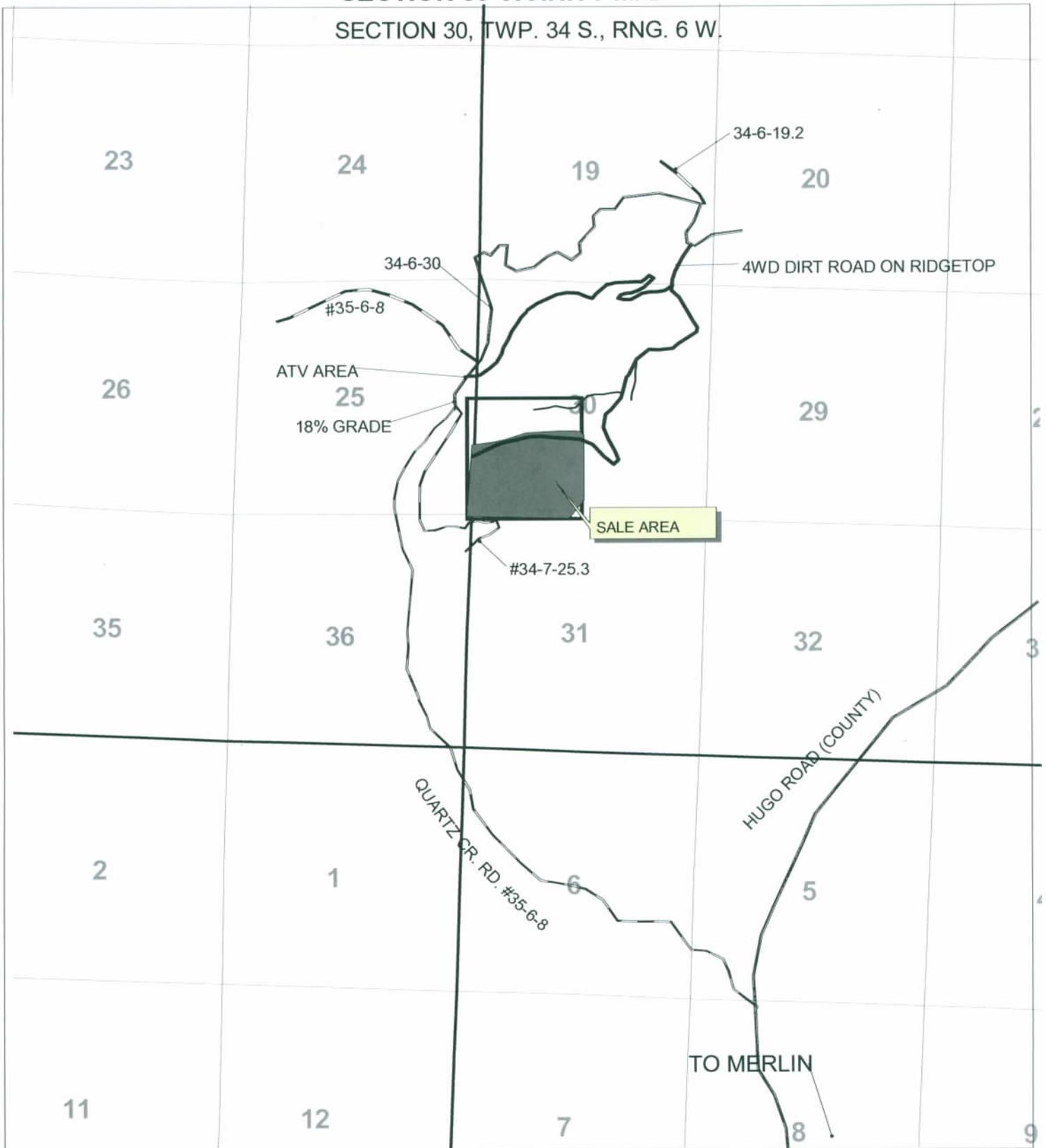
Arlington, Virginia 22203

- Regional Solicitor
Pacific Northwest Region
U.S. Department of the Interior
805 S.W. Broadway, Suite 600
Portland, Oregon 97205
- Josephine County Department of Forestry
- County Courthouse, Room 68
- Grants Pass, OR 97526

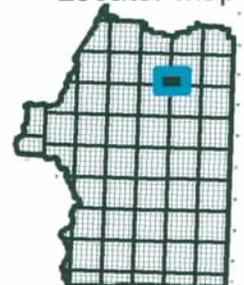
Attachments:
Exhibit A Map
Form 1842-1

SECTION 30 VICINITY MAP

SECTION 30, TWP. 34 S., RNG. 6 W.



Locator Map



3000 0 3000 6000 Feet



NOTE:
Active logging in Section 30.
Not all roads will be accessible



O&C Logging Road Right-of-Way Permits No. M-5033OR 066300)
To the Purchaser of a Josephine County Timber Sale
NEPA Categorical Exclusion Review
DOI-BLM-OR-M070-2010-0016-CX

Proposed Action:

Josephine County Dept. of Forestry is planning their Section 30 timber sale to be offered in the April of 2010. The proposed action is the issuance of an O&C Logging Road Right-of-Way Permit to the purchaser of Josephine County's timber sale. The permit would be good for up to three years. The permit will allow commercial hauling of approximately 600 MBF of private timber over existing U.S. roads.

The 43 Code of Federal Regulations 46.215 requires the review of the following exceptions to categorical exclusion. If it is determined that any of the extraordinary circumstances apply, then an otherwise categorically excluded action would require additional analysis and environmental documentation. Additional analysis must be prepared for actions which may:

- 1) Have significant adverse effects on public health or safety.
 Yes **No** Remarks: All activities occur on existing roads and no adverse effects to health or safety are expected.

- 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 principle 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: There are no resources which will be impacted by the limited amount of hauling.

- 3) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2) (E)].
 Yes **No**

- 4) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
 Yes **No** Remarks: There are no uncertain environmental effects, or unique or unknown environmental risks to hauling on existing roads.

- 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 precedent will be set by hauling on existing roads.

- 6) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
 Yes **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 of office.

Yes No Remarks: No listed or eligible properties are in the project 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: No effects on listed species or Critical Habitat are expected.

9) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

Yes No Remarks: There is no indication that the project will violate any such law.

10) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

Yes No Remarks: There is no indication that there will be a disproportionate impact 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: There is no indication that the project will limit access or have any impact on sacred or ceremonial sites.

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: As the project will occur with the listed environmental stipulations, spread of noxious weeds will be indistinguishable from background vectors of weed spread.

Reviewers:

Sarah Deverson 4/23/10
Silviculture, Vegetation Dynamics
& Port-Orford Cedar Date

A. Jents 4/21/10
Botany Date

Steve Ben 4/22/2010
Cultural Resources Date

Jon R. Brown 4-21-2010
Fisheries Date

Robin C. Snider 4/21/10
Wildlife Date

Michael DeBus 4/22/10
Soils/Hydrology Date

J. M. Ke- 4/24/10
Visual Resources / Recreation Date

James R. Brown 4/24/10
Engineering Date