

CATEGORICAL EXCLUSION REVIEW & DECISION RECORD

(DOI-BLM-OR-M060-2012-0015-CX)

Project Name: O&C Logging Road Right-of-Way Permit No. M-5056 (OR067225)

BLM Office: Ashland Resource Area, Medford District Office

Contact: Dave Allen, Project Leader @ 541- 618-2472

Location: The haul route and affected road is located on BLM administered lands in T. 38 S., R. 2 E., in Sections 15, 22 and 27, W.M., Jackson County, Oregon (Map 1).

DESCRIPTION OF THE PROPOSED ACTION:

The Ashland Resource Area of the Medford District BLM proposes to issue an O&C Logging Road Right-of-Way Permit to a private land owner, under the provisions of 43 CFR Subpart 2812, and P.L. 94-579; 90 Stat 2743. This has been designated as Permit No.M-5056 (OR 067225). The requested period of use is for 2 months, with the possibility of one-month extensions at the discretion of the Authorized Officer. The permit will allow commercial hauling of approximately 50 MBF of private timber over an existing BLM road. Utilization of this road 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 following table identifies the BLM roads to be used, estimated timber volumes to be hauled over each road and the anticipated haul periods:

BLM Roads to be Used						
BLM Road and Segment No.	Seg. Length	Length to be Used	Present Surface Type	Haul Period	Estimated Timber Volume to be Hauled (MBF)	Estimated Mineral Volume to be Hauled (CY)
38-2E-27.00A1	0.53	0.53	BST	6/06-7/15/12	50	0
38-2E-27.00A2	1.77	1.77	BST	6/06-7/15/12	50	0
38-2E-27.00A3	0.37	0.03	BST	6/06-7/15/12	50	0

The Permittee agrees to comply with the following environmental and safety stipulations as required project design features:

- The Permittee shall discontinue hauling under this permit upon written notice of the Authorized Officer that such operations are causing damage to the existing facilities.
- Use of the road under this permit is limited to Dry Weather Use generally from May 15 to October 15. This restriction could be waived by the authorized officer, in consultation with a watershed specialist, under dry conditions.

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*.

On July 25, 2007, the *Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl* amended the 1995 Medford District Resource Management Plan by removing the Survey and Manage Mitigation Measure Standards and Guidelines.

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Rey, et al.*, No. 08-1067 (W.D. Wash.) (Coughenour, J.), granting Plaintiffs’ motion for partial summary judgment and finding a variety of NEPA violations in the BLM and USFS 2007 Record of Decision eliminating the Survey and Manage mitigation measure. Judge Coughenour deferred issuing a remedy in his December 17, 2009 order until further proceedings, and did not enjoin the BLM from proceeding with projects (including timber sales).

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 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 O&C Logging Road Right-of-Way Permit 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 ... consistent with federal and state law” (p. 49).

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, and the Archaeological Resources Protection Act of 1979.

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:

Yes	No	Categorical Exclusion Exception
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|--------------------------|-------------------------------------|---|
| <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; |

ivers; 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.

- () (X) 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.
- () (X) 4. Have highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.
- () (X) 5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
- () (X) 6. Have a direct relationship to other actions with individually insignificant, but significant cumulative environmental effects. (40 CFR 1508.7 and 1508.25(a)).
- () (X) 7. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.
- () (X) 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.
- () (X) 9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
- () (X) 10. Have disproportionate significant adverse impacts on low income or minority populations (Executive Order 12898).
- () (X) 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).
- () (X) 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

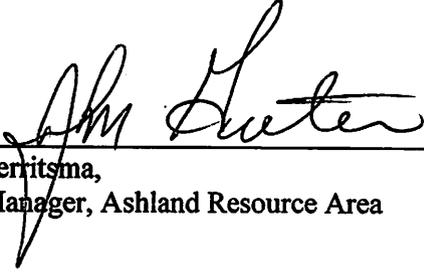
In accordance with 43 CFR §§ 46.205(c) and 46.215, the proposed action has been reviewed against the twelve criteria above and I have determined that none of the extraordinary circumstances described in 43 CFR § 46.205(c) apply to this project. The project qualifies as a categorical exclusion under 516 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

<u>Dave Allen</u>	<u>Realty Specialist</u>	<u>05/03/12</u>
Prepared by	Title	Date
<u>Ted Hass</u>	<u>Asst. Field Manager</u>	<u>05/10/12</u>
Reviewed & Edited by	Title	Date

DECISION

I have determined that the proposed action, which qualifies as a categorical exclusion under 516 DM 11.9 E (16), involves no significant impact to the human environment and that no further environmental analysis is required. It is my decision to authorize the issuance of the O&C Logging Road Right-of-Way Permit No. M-5056 (OR 67225) to the private land owner. Notice of this decision will be posted on the District internet website.



John Gerritsma,
Field Manager, Ashland Resource Area

5/11/12
Date

ADMINISTRATIVE REMEDIES

This is a lands decision on a right-of-way action in accordance with BLM regulations under 43 CFR Part 2812. All BLM decisions under 43 CFR 2812 will become effective on the day after the expiration of the appeal period (30 days after this decision is signed) 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).