

# DECISION RECORD AND CATEGORICAL EXCLUSION REVIEW

(DOI-BLM-OR-M060-2015-0017-CX)

**Project Name:** Weather System Facility on Woodrat Mountain for Rogue Valley Hang Gliding and Paragliding Association (RVHPA) (OR 068380)

**BLM Office:** Ashland Resource Area, Medford District **Contact:** Tanya Dent (541) 618-2477

**Location:** T. 38 S., R. 3 W., SE ¼ Sec 25, Willamette Meriden, Jackson County, OR

## DESCRIPTION AND LOCATION OF THE PROPOSED ACTION:

The proposed project is authorize a new right-of-way grant to construct a weather station at the top of Woodrat Mountain (top launch) in SE ¼ of Section 25, T. 38 S., R. 3 W., W.M. The weather station will consist of a 15 feet long (3 feet will be cemented in ground), 2-inch diameter pole. The pole will support the following: solar panel mount, 80 watt solar panel, communications dish, and two processors with cameras for surveillance in outdoor enclosures. A lock box (72" x 24" x 27") will be installed to hold batteries and electronic equipment. Two small plastic utility boxes will be mounted on the side of the lock box containing weather base stations (1 and 2). The pole and lock box would be located within a fenced area (10' x 10' x 8'). Two wireless weather remote weather station modules/sensors would be located in the two trees that currently have the wind socks in them as shown on the attached project map. The proposed location of the fenced area is within the existing graveled area in the northwest corner of the top launch location. The entirety of the proposed project is 100 ft<sup>2</sup>.

The term of the right-of-way grant will be for 10 years.

## The right-of-way holder agrees to comply with the following environmental and safety stipulations as required Project Design Features:

### *For the protection of hydrological resources*

- Restrict planned maintenance and construction activities to the dry season.
- When emergency access is required, if possible do so during dry periods.
- When possible, restrict or suspend activities during precipitation events or when precipitation is imminent.
- No snow plowing of native surface (unsurfaced) roads shall occur.

### *For the protection of wildlife*

- The proposed weather station is located within a nest core for a historic nest site (22670). It is approximately 1/2 mile to the nearest historic nest site. During the implementation of this project, if any nesting northern spotted owls are located, the construction will be immediately suspended until the young are fledged (June 20).

*For the protection of cultural resources*

- If, during project implementation, the contractor/workers encounters or becomes aware of any objects or sites of cultural value on federal lands, such as historical or pre-historical ruins, graves, grave markers, or artifacts, the contractor shall immediately suspend all operations in the vicinity of the cultural value and notify the Contracting Officer's Representative (COR). The project may be redesigned to protect the cultural resource values present, or evaluation and mitigation procedures would be implemented based on recommendations from the resource area archaeologist and concurrence by the Ashland Field Manager and State Historic Preservation Office.

## **PLAN CONFORMANCE**

The proposed action is in compliance with the *1995 Medford District Record of Decision and Resource Management Plan (RMP)*. 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 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 under the *2001 Record of Decision and Standards and Guidelines*, (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, and the Archaeological Resources Protection Act of 1979.

## **CATEGORICAL EXCLUSION REVIEW**

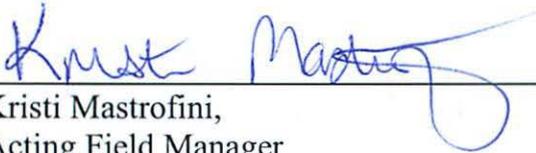
Department of the Interior Regulations (43 CFR § 46.205(c)) require that any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances listed in 43 CFR § 46.215. An action would meet one of the extraordinary circumstances if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

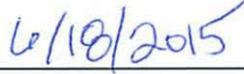
CX Extraordinary Circumstances Documentation	Yes	No
1. Have significant impacts on public health or safety.		X
<b>Rationale:</b> It is not anticipated that the Proposed Action will have any effects to public health and safety.		
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or 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
<b>Rationale:</b> The proposed action is not anticipated to affect the aforementioned resources.		
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		X
<b>Rationale:</b> Based on past experience from these types of activities, there are no predicted environmental effects from the Proposed Action that are considered to be highly controversial nor are there unresolved conflicts concerning alternative uses.		
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
<b>Rationale:</b> The activities proposed in this CX are not highly uncertain, potentially significant, unique, or unknown risks.		
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
<b>Rationale:</b> The activities proposed in this CX are addressed and authorized under the Medford ROD/RMP. The proposed activities occur widely on Federal lands throughout Oregon and there is no evidence this type of activity would establish a precedent or decision for future actions that would have significant environmental effects.		
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
<b>Rationale:</b> The Proposed Action would not result in a cumulative significant effect when added to relevant past, present, and reasonably foreseeable actions in the area.		
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.		X
<b>Rationale:</b> The proposed action will not have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places.		
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

CX Extraordinary Circumstances Documentation	Yes	No
<b>Rationale:</b> The location of the proposed action has been reviewed by the BLM botanist, wildlife biologist, and fisheries biologist. The Proposed Action would have no 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.		
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
<b>Rationale:</b> The proposed activities conform to the Medford RMP's direction for management of public lands on the Medford District and comply with applicable laws, rules, and regulations.		
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
<b>Rationale:</b> Similar actions have occurred throughout the District and there is no evidence that this type of activity 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 130007).		X
<b>Rationale:</b> The Proposed Action does not significantly or adversely affect the physical integrity of any such sacred sites.		
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).		X
<b>Rationale:</b> The Proposed Action does not result in measurable changes to the current baseline of the risk, or actual introduction, continued existence, or spread of noxious weeds or nonnative invasive species above what would be present from other rights-of-way that occur on federal lands.		

## DECISION AND RATIONALE

Based on the NEPA CATEGORICAL EXCLUSION REVIEW above, I have determined that the proposed action qualifies as a categorical exclusion under 43 CFR 46.210 (e), 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 a FLPMA Right-of-Way Grant (OR 068380) to the applicant. Notice of this decision will be posted on the Medford BLM website at <http://www.blm.gov/or/districts/medford/plans/plans.php>.

  
 Kristi Mastrofina,  
 Acting Field Manager  
 Ashland Resource Area

  
 Date

## **ADMINISTRATIVE REVIEW**

Administrative review of right-of-way decisions requiring 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)).

For additional information concerning this decision, contact Kathy Minor, Planning and Environmental Coordinator, at (541) 618-2245.

## **IMPLEMENTATION DATE**

This is a lands decision on a right-of-way action in accordance with BLM regulations under 43 CFR Part 2800. All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal (see 43 CFR § 2801.10) unless the Secretary of the Interior rules otherwise. Right-of-way decisions that remain in effect pending an appeal are considered “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 (IBLA) 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 Authorized Officer in the Grants Pass Field Office by close of business (4:30 p.m.) not more than 30 days after the effective date. Only signed hard copies of a notice of appeal that are delivered to 2164 NE Spalding Ave, 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 IBLA under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed 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 (at the address listed above) and with the IBLA (at the address listed below) within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the IBLA 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:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the IBLA and the Regional Solicitor (at the addresses listed below) at the same time such documents are served on the Authorized Officer 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.

U.S. Department of the Interior  
Office of Hearing and Appeals  
Interior Board of Land Appeals  
801 N. Quincy Street, MS 300-QC  
Arlington, VA 22203

Regional Solicitor  
Pacific Northwest Region  
U.S. Department of the Interior  
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