

**UNITED STATES OF AMERICA
DEPARTMENT OF INTERIEOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE**

**CATEGORICAL EXCLUSION DETERMINATION AND DECISION RECORD
Travel Oregon Television Advertisement Filming on the Rogue River**

DOI-BLM-OR-M070-2012-017-CX

A. Background

Location of Proposed Action: Recreation Section of the Rogue National Wild and Scenic River from Almeda Park to the take out at Argo. The legal description is T34S-R7W-Section 19; T33S-R7W-Section 12; T34S-R7W-Section 19 and T33S-R7W-Sections 12 and 13.

Land Use Allocations: The project is within the designated Rogue National Wild and Scenic River. The Outstandingly Remarkable Values for this river segment are recreation, fisheries, and scenery. The river segment's classification is recreational under the Wild and Scenic River system.

Proposal: Wieden and Kennedy, Inc. is proposing to film a commercial for Travel Oregon along the recreation section of the Rogue River from Almeda Park to the take out at Argo, utilizing two rafts. One raft will have the guide and actor and the other raft will carry filming equipment and personnel. Rogue Wilderness Inc. would be guiding Wieden and Kennedy, Inc. down the river. Rogue Wilderness Inc. is authorized under a separate BLM special recreation permit to provide commercial guide trips on the Rogue River. Filming would occur from raft as well as from land on both shores adjacent to Argo Rapid. Approximately three trips downriver are planned to occur on one day either August 21, 22 or 23, 2012 for approximately 5 hours. Almeda Park is managed by Josephine County Parks and Argo is managed by the BLM. The proposal does not include filming at Almeda Park.

Twelve personnel would be on site, with 2 cameras and 2-3 vehicles. A total of 2 people would be filmed (actor and guide). The actor would be in Shakespeare costume but no other props are proposed. Almeda Park, Argo and the Rogue River would remain accessible to the public during the filming. Camera mounting will consist of hand-held and stationary tripods. Additional filming equipment on site may include reflectors and monitors.

This action would be administered under a land use permit in a manner consistent with the Federal Land Policy and Management Act of 1976 (FLPMA). Film permits are issued under the authority of Section 302b of the FLPMA and regulations in 43 CFR 2920.

Additional stipulations that will be attached to the permit include:

- Any equipment, props, or gear brought in for filming will be removed upon completion.
- No ground or vegetation disturbance will be allowed.

- All camera placement and filming activities will take place at locations approved by the BLM representative on site.
- All vehicles will be parked in a manner which doesn't block access to the sites by the general public.
- Wieden and Kennedy, Inc. do not have exclusive use of the recreation sites and river. Other visitors may utilize the area during filming.
- BLM personnel will be on site during filming
- Raft(s) and film crew will not block other river users, especially in Argo rapid.
- BLM representative will be notified at least 3 days prior to commencement of filming.

B. Plan Conformance

This proposal is in conformance with objectives, land use allocations, and management direction in the 1995 *Medford District Record of Decision and Resource Management Plan* (1995 ROD/RMP) and any plan amendments in effect at the time this document is published.

This project also conforms with the 1994 *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) and the 2004 *Record of Decision for the Rogue National Wild and Scenic River: Hellgate Recreation Area*.

The Proposed Action is consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Medford District Resource Management Plan.

The proposed action was designed to be consistent with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937, Federal Land Policy and Management Act of 1976, Endangered Species Act of 1973, Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act of 1990 (as amended), and Archaeological Resources Protection Act of 1979.

C. Compliance with NEPA

The Proposal qualifies as a categorical exclusion as provided in the United States Department of the Interior Code of Federal Regulations (CFR) (43CFR 46). Subsection 46.210 (j) states "Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public". The Proposed Action also qualifies as a categorical exclusion under Department of Interior Manual 516 DM 11.9, E (16), which 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".

D. NEPA Categorical Exclusion Review

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 following "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.

1. *Have significant impacts on public health or safety.*

Yes No

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: Although the activity would occur within the recreation section of the Rogue National Wild and Scenic River, the activity would essentially be the same as other recreational activities that occur daily within the corridor.

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

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

Yes No

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 or office.*

Yes No

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

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

Yes No

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

Yes No

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

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

**U.S. DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT**

**NEPA CATEGORICAL EXCLUSION DECISION DOCUMENTATION
Travel Oregon Television Advertisement Filming on the Rogue River**

DOI-BLM-OR-M070-2011-017-CX

Decision and Rationale: Based upon the attached Categorical Exclusion, it is my decision to authorize the land use permit for Wieden and Kennedy Inc. as described in the Proposed Action.

In addition, I have reviewed the plan conformance statement and have determined that the Proposal is in accordance with the approved land use plan and that no further environmental analysis is required. Therefore, an environmental assessment or an environmental impact statement is not needed. It is my decision to implement the Proposed Action in accordance with 43 CFR Part 4 –Administrative Remedies.



Allen Bollschweiler, Field Manager
Grants Pass Resource Area

8/15/12

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 land decision on a land use permit in accordance with BLM regulations at 43 CFR Subpart 2920. All BLM decisions under 43 CFR Subpart 2920.2-2 8(b) “Permit decisions made under paragraph (a) of this section take effect immediately upon execution and remain in effect during the period of time specified in the decision to issue the permit. Any person whose interest is adversely affected by a decision to grant or deny a permit under paragraph (a) of this section may appeal to the Board of Land Appeals under part 4 of this title. However, decisions and permits issued under paragraph (a) of this section will remain in effect until stayed.

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. Faxed or e-mailed appeals will not be considered. Only signed hard copies of a notice of appeal that are delivered to the Grants Pass Field Manager 2164 NE Spalding Avenue, Grants Pass, OR 97526, will be accepted.

In addition to the applicant, in order to qualify as an appellant, a “party to the case,” you have the burden of showing possession of a “legally cognizable interest” that has a substantial likelihood of injury from the decision. (See 43 CFR § 4.410(d)). 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 the applicant, Extreme Makeover Home Edition, 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.

For additional information concerning this project, contact Michelle Calvert, 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
500 N.E. Multnomah Street, Suite 607
Portland, Oregon 97232

- Wieden and Kennedy Inc.
224 NW 13th Ave
Portland, OR 97209