UNITED STATES OF AMERICA
DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE

CATEGORICAL EXCLUSION DETERMINATION & DECISION RECORD

Christopher Wade R/W Grant Application, OR 66400
DOI-BLM-OR-M070-2010-0035-CX

I. PROPOSED ACTION

A. Description of Proposed Action

The proposed project is to authorize Right-of-Way Grant OR 66400 to Christopher Wade for use of existing BLM Road number 38-5-15 for ingress and egress to his property located at 1298 Upper Powell Creek Road, Grants Pass, Oregon. OR 66400 will be issued pursuant to Title V of the Federal Land Management Policy Act of October 21, 1976 (90 Stat. 2776; 43 USC 1761). The authorization would allow the use of identified existing BLM owned and controlled road for 30 years.

B. Location of Right-of-Way and Land Use Allocation

The affected road and/or lands are located in Josephine County on lands administered by the Grants Pass Resource area BLM. The existing road is located in T. 38 S., R. 5W. , Sections 15 and 16 Willamette Meridian. The proposed right-of-way (R/W) location is shown on the attached map. The road right-of-way is approximately 12 feet wide, 7392 feet long and totals approximately 2 acres on an agency administered road.

C. Need / Rationale for the Proposed Action

The BLM needs to respond to Christopher Wade's application for road right-of-way in a manner consistent with the resource management plan objectives and direction in accordance with the BLM's obligations under the Federal Land Policy and Management Act of 1976 (FLPMA). The current land use plan directs BLM to "Continue to make BLM-administered lands available for needed rights-of-ways where consistent with local comprehensive plans." (Record of Decision and Resource Management Plan for the Medford District BLM (1995 ROD/RMP), p. 82).

II. PLAN CONFORMANCE

This proposed action is consistent with policy directed by the following:

- the *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement* and *Record of Decision* (EIS, 1994 and RMP/ROD, 1995);
- the *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);
- *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)
- the *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon* (FSEIS, 2004 and ROD, 2004);
- *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.

III. 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."

Extraordinary Circumstances 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 46 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 **(X)No**

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.*

( )Yes **(X)No**

3) *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*

( )Yes **(X)No**

4) *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*

( )Yes **(X)No**

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

( )Yes **(X)No**

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

( )Yes **(X)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 **(X)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 **(X)No**

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

( )Yes **(X)No**

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

( )Yes **(X)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 **(X)No**

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 **(X)No**

Reviewers:

Sarah Davison	8/25/10	Robin G Snider	8/24/10
Silviculture, Vegetation Dynamics, & Port-Orford Cedar	Date	Wildlife	Date
[illegible]	8/23/10	Dave Mauner	8/23/10
Botany	Date	Soils/Hydrology	Date
Lisa Brenn	8/23/2010	[illegible]	8/23/10
Cultural Resources	Date	Visual Resources / Recreation	Date
Jon R Baum	8/23/2010	James R Roper	8/23/10
Fisheries	Date	Engineering	Date
Jim Gonzales	8-24-10		
Fire and Fuels	Date		

Joe Hoppe	8/4/2010
Prepared by	Date
Dulcey Schuster	8/25/10
NEPA Reviewed by	Date

IV. DECISION

I have reviewed this Categorical Exclusion Documentation, including the plan conformance, NEPA compliance review, and extraordinary circumstances review, and have determined the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required. It is my decision to implement the action as described and authorize Right-of-Way Grant OR 66400 to Christopher Wade for a thirty (30) year term.

Abbie Jossie	8.25.10
Abbie Jossie Field Manager Grants Pass Resources Area	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 right-of-way application. All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal (See 43 CFR § 2801.10) unless the Secretary rules otherwise. Rights-of-Way decisions that remain in effect pending an appeal are considered as "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 (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 the Right of Way applicant (PacifiCorp) 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.

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 Anthony Kerwin, Grants Pass 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

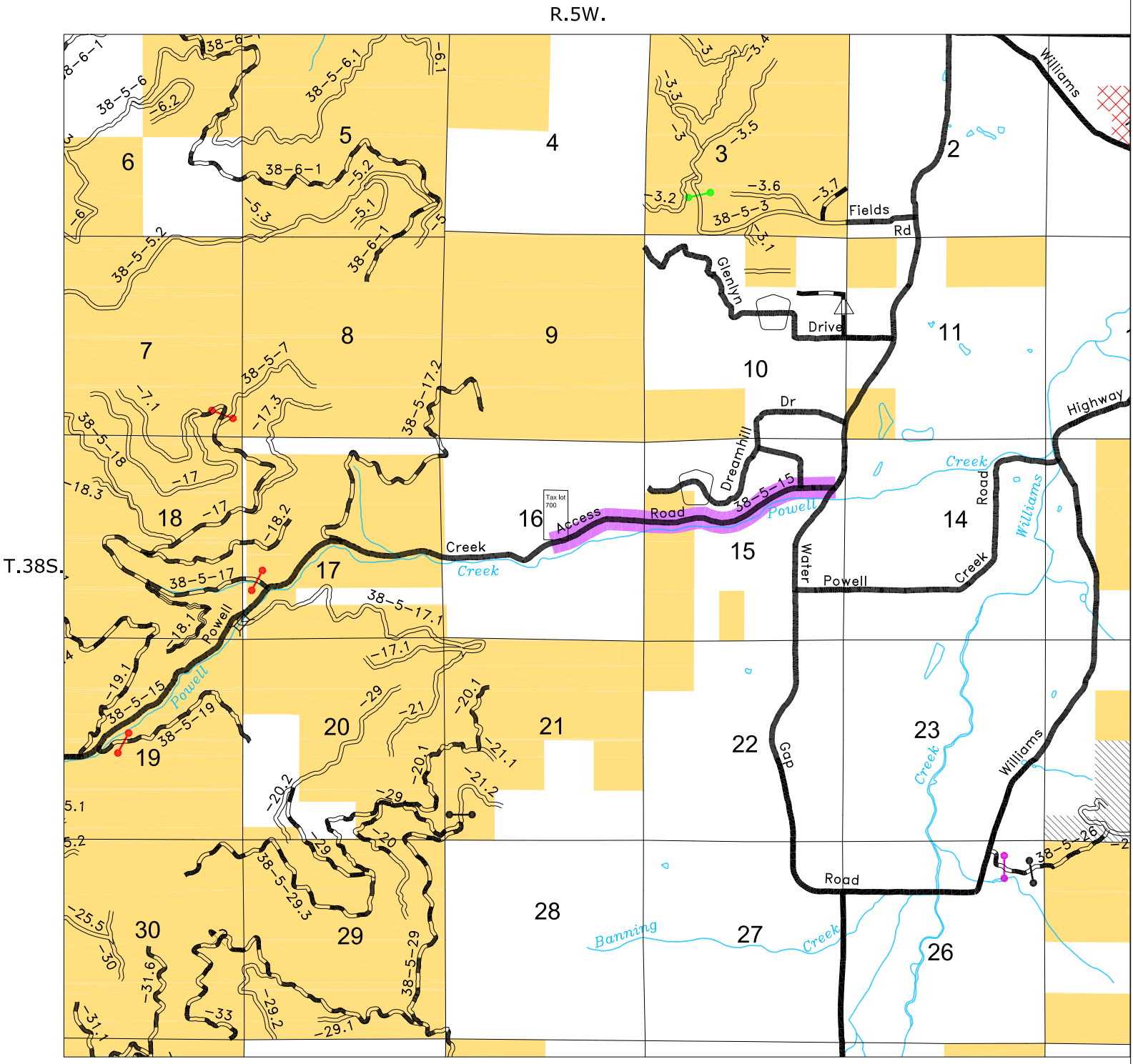
- Regional Solicitor
  Pacific Northwest Region
  U.S. Department of the Interior
  500 N.E. Multnomah Street, Suite 607
  Portland, Oregon 97232

- Christopher Wade
  PO Box 1861
  Grants Pass, OR 97528

Attachments:
Exhibit A Map

Exhibit A. Map

OR 66400
Proposed Right-of-way



T.38S., R.5W., Sections 15 & 16
W.M. Josephine County, OR

Proposed ROW

BLM lands

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Last edited August 3, 2010