

# Categorical Exclusion Documentation

## A. Background

**BLM Office:** Prineville Field Office

**NEPA Log #:** DOI - BLM - OR – P060 – 2013 – 0023 - CX

**Project/Lease/Serial/Case File #s:** OR 67783

**Proposed Action Title:** CE Phillips Family Limited Partnership Request for Road Right-of-Way.

### Location:

Proposed right-of-way (ROW) OR 67783 consists of a portion of an existing dirt road that crosses BLM administered lands. This dirt road's beginning point is about seven miles west of the town of Alfalfa, Oregon and is specifically located on Stenkamp Rd. at a point that is about 1.25 miles north of the intersection of Stenkamp Rd. and Alfalfa Market Rd., Crook County, Oregon. This dirt road travels easterly from its beginning point on Stenkamp Rd. for less than two miles and terminates at the ROW Applicant's private property.

The proposed right-of-way is within BLM land described as:

### Willamette Meridian, Oregon

---

**T.17 S., R.13 E.,**

sec. 22, SESENE,N2S2;

sec. 23, N2S2NW.

**Description of the Proposed Action:** The BLM proposes granting the Applicant CE Phillips Family Limited Partnership a linear road ROW. The proposed ROW would give the Applicant the legal right to use and maintain that portion of the existing dirt road described above (under the heading "Location") that crosses the above-noted BLM lands to reach Applicant's private property. The proposed road ROW would be 20 feet wide by 10,560 feet long, amounting to approximately 4.9 acres.

## B. Land Use Plan Conformance

Land Use Plan Name: The Upper Deschutes Record of Decision and Resource Management Plan (the "ROD/RMP"). Date approved: September 2005.

The proposed action is in conformance with the above ROD/RMP. See ROD/RMP Page 135 which provides, "Transportation and Utilities Objective TU-1: Provide new or modified rights-

of-way for transportation/utility corridors and communication/energy sites to meet expected demands and minimize environmental impacts”. In addition, Guideline 1 on such page states,

“BLM administered lands will continue to be available for rights-of-way, including multiple use and single use utility/transportation corridors, following existing routes, and roads”.

Regarding travel and road use restrictions in the ROD/RMP, (a) Map 3 of the ROD/RMP “Travel Management Designations and Seasonal Use Periods” shows the proposed ROW as being in an area “Limited to Designated Roads Only Year Round”, and (b) Map 16 of the ROD/RMP “Interim Guidance for Motorized Use of Existing Roads and Trails for the Mayfield Pond Recreation Area” shows the proposed ROW as being in an area “Limited to Designated Roads Only Year Round.” The ROD/RMP on p. 139 states “Objective TU-6: Provide motorized access to facilitate reasonable entry and operations for administrative purposes. Rationale: To meet BLM administrative needs for land and resource management activities, public access restrictions may not apply or may be temporarily modified . . . Administrative access will be required in cases of access required by law or regulation . . . and to construct, maintain, and access private property or facilities. Examples of such administrative and management activities include but may not be limited to . . . rights-of-way and facilities construction/maintenance and ingress/egress to private in-holdings . . . and other activities allowed under written authorization.”

The granting of the ROW under this proposed action is appropriate under the foregoing “administrative needs” provisions. The road (referred to herein as the “Access Road”) on which the proposed ROW would be granted had been used by prior owners of the Applicant’s private property as a driveway access road for over fourteen (14) years under the authorization of BLM right-of-way OR 54295. In 2006, the Applicant acquired the private property serviced by the Access Road, however the business seller of the private property failed to assign ROW OR 54295 to the Applicant even though the Applicant requested such assignment. The Applicant has used the Access Road since 2006 on a permitted “casual use” basis under applicable BLM regulations. There is no other existing access road to the Applicant’s private property.

Similar to ROW OR 54295 referred to above, the ROW OR 67783 will include a stipulation to the effect that: Unless and until otherwise determined by the BLM in its discretion, (a) the ROW holder shall at all times have in place a 16 foot Powder River steel gate at the entrance of the right-of-way, (b) such gate will be locked at all times, other than such periods from time to time when the gate needs to be opened briefly to allow ingress or egress by the holder or the BLM, and (c) the right-of-way holder and the BLM shall be the only ones authorized to use motorized vehicles on the subject road right-of-way.

### **C. Compliance with NEPA**

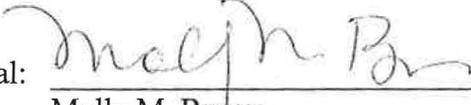
ROW OR 54295, referred to above, presently remains outstanding and covers the same Access Road for which the Applicant seeks this proposed ROW OR 67783. ROW OR 54295 was authorized under NEPA Environmental Assessment Number OR-056-98-097 titled “Paul Rzonca Right-of-Way” dated January 22, 1999 and its related Decision Record dated February 24, 1999, both of which documents are attached hereto as Appendix 1.

The ROW OR 67783 under the proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 Departmental Manual (DM) 516 11.9, E. Realty, (12) "Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way." (516 DM 11.9, dated 1/30/2008). The proposed ROW grant OR 67783 that is covered by this Categorical Exclusion Documentation is wholly within the boundaries of ROW OR 54295.

The noted categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply. See attached CX Extraordinary Circumstances Documentation checklist.

#### **D. Signature**

I have considered this proposed action to grant road ROW OR 67783 and have found that this action has no significant affect either individually or cumulatively on the human environment.

Authorizing official:  \_\_\_\_\_ 5/16/13  
Molly M. Brown, \_\_\_\_\_  
Field Manager, Deschutes Oregon Resource Area Date

#### **Contact Person**

For additional information concerning this review, contact Michael Kroll, Realty Specialist, Prineville Field Office, 3050 NE 3rd Street, Prineville, OR 97754, telephone (541) 416-6752, or email [mkroll@blm.gov](mailto:mkroll@blm.gov).

<b>CX EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION</b>		<b>YES</b>	<b>NO</b>
The proposed categorical exclusion action will:			
2.1	Have significant impacts on public health or safety.		X
<p>Rationale: The proposed action and the road construction and maintenance activities that would be permitted under such action are referred to collectively herein as the "Project". The Project would allow legal access over, and the right to maintain, certain portions of an existing dirt road that receives daily use and has been in place in substantially its current form and condition for over 14 years. The Project's dirt road serves as a driveway access to the Applicant's private property. To date the subject road has not had, and it is not in the future expected to have, significant impacts on public health or safety.</p>			
2.2	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
<p>Rationale:</p> <p>Since the Project would take place in an already disturbed dirt road prism, this type of undertaking would not create new ground disturbance and would not have impacts on historic or cultural resources. This action would be covered under the 1998 Protocol for Managing Cultural Resources on lands Administered by the BLM in Oregon, Appendix E. Realty 7. Issuance of permits, FLMPA leases, and right-of ways where no surface disturbance is authorized.</p> <p>For periodic maintenance, the road has been lightly graded and there has been spot rock filling of pot holes. If any road maintenance is proposed by the Applicant in the future that would result in significantly more road surface disturbance than past maintenance activities have caused, then a cultural/historic survey may be required by the BLM before any such future maintenance by the Applicant may be permitted by the BLM.</p> <p>The Project would not be located in, or within 40 or more miles of, any designated park or refuge lands; therefore the proposed action would not have a significant effect on any such lands. The Project would not conflict with current recreational uses of the BLM lands that are within and surrounding the Project area.</p> <p>There are no Wilderness Areas or Wilderness Study Areas or lands with wilderness character within 40 or more miles of, or that would be affected by, the proposed Project. The Project does not include any actions for Wilderness Study Areas or for lands being managed for wilderness character. There are no wilderness qualities on public lands proposed for the Project. These public lands did not contain wilderness qualities according to the past 1978-79 Wilderness Intensive Inventory. Although no current Wilderness Inventory Updates have recently occurred for these public lands, the improved roads on public lands in the Project area have bisected public lands into blocks of less than 5,000 acres, and the area does not meet any of the exceptions to such minimum 5,000 acre requirement for wilderness characteristics, so wilderness characteristics are absent.</p>			

The Project would not be located within or near an area designated as Federal Wild and Scenic River and therefore would not affect any such natural resources and unique geographic characteristics.

The Project would not be located within or near any national natural landmarks, national monuments, sole or principal drinking water aquifers, or prime farmlands, wetlands (Executive Order 11990), or floodplains (Executive Order 11988), therefore the Project would have no significant effect on any such ecologically significant or critical areas. The short road involved in the Project is in an area of farm and ranch lands and serves as an access road to Applicant's private recreational property. The road has been in place for more than 14 years and has had no negative affect on farm lands within or near the Project area.

As noted above, the Project would allow legal access over, and the right to maintain, certain portions of a well-used existing dirt road located in a heavily populated area of central Oregon. The access road involved in the Project has not in the past had, and in the future is not expected to have, any negative affect on migratory birds.

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

Rationale: The Project ROW is for the continued use and maintenance of an existing dirt road that is in good condition and has been in use for many years. The Project's road has not been controversial or raised resource conflicts in the past. Accordingly, it is expected that the Project would not have highly controversial effects or involve unresolved conflicts with available resources.

2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
---	--	---

Rationale: There are no predicted effects on the human environment from this action that are considered to be highly uncertain or involve unique or unknown risks. The BLM has successfully implemented numerous similar road ROW grant actions within the Prineville District without incurring any of the aforementioned effects on the human environment.

2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
---	--	---

Rationale: Rights-of-way for access roads have been authorized for many years throughout the BLM. There is no evidence that this action will have potentially significant environmental effects. This management activity does not commit the BLM to pursuing any further actions, and would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
---	--	---

Rationale: There are no other known significant activities in the Project area that have an impact on or that would be impacted by the Project, accordingly significant cumulative effects are not predicted to occur with respect to this proposal. In addition, since the Project would take place in an already disturbed area, it is anticipated that there would not be any resources affected, which means that there wouldn't be any cumulative effects with any other actions taking place in general vicinity of the Project.

2.7 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
Rationale: There would be no impacts to listed, or eligible for listing properties on the National register of Historic Places. Since the Project would take place in an already disturbed road prism it is anticipated that there would not be any resources affected, which means that the proposed action would not adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places, nor would it cause loss or destruction of significant scientific, cultural, or historical resources. See 2.2		
2.8 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
Rationale: The proposed right-of-way grant is for an existing dirt road that is in good condition and has been used by the public for over 14 years. Since the Project would take place in an already disturbed area it is anticipated that there would not be any resources adversely affected. Since the proposed Project is not expected to create any new disturbance, there are no Endangered or Threatened species or special status plant species that might reasonably be expected to be negatively impacted by the Project. The Project area is not within habitat that has been identified by relevant Federal authorities as preliminary general habitat or preliminary priority habitat for the Greater Sage Grouse. Based on the foregoing, the proposed action would not 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.		
2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
Rationale: The issuance of the linear road rights-of-way under the Project would be in accordance with the provisions of the Federal Land Policy and Management Act of 1976, as amended. The right-of-way that would be granted under the Project is substantially similar in form and substance to numerous other linear road rights-of-way granted by the BLM and the Prineville District in particular. Such proposed right-of-way is designed to conform to all Federal, State, local and tribal laws and requirements including those relating to the protection of the environment. Accordingly, the Project would not violate any Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
Rationale: The issuance of the linear road right-of-way under the Project is for the purpose of granting legal road access to a parcel of rural private property using a short roadway that has been in existence and used for many years. The Project is not expected to have any noticeable effect on low income or minority populations.		
2.11 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
Rationale: The Project would not make any changes to the access and use of Federal lands other than it would grant the right-of-way holder legal access to his private property and the right to maintain the road at issue in good condition and repair. Accordingly, the proposed action would not 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.		

<p>2.12 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).</p>		X
<p>Rationale: The proposed right-of-way grant is for an existing dirt road that is in good condition and has been used by the public for over 14 years. Since the Project would take place in an already disturbed area it is anticipated that there would not be any resources adversely affected. The Project is not expected to significantly increase traffic on the subject access road. Customary stipulations would be placed in the right-of-way that require steps to avoid the introduction, existence or spread of non-native plants, such as requiring road maintenance vehicles to be cleaned before work is performed in the Project area. Accordingly, the Project is not expected to 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).</p>		