

Decision Record

NEPA Register Number: DOI-BLM-OR-P060-2011-0057-EA

Title of Action: Basalt Quarry Road

Serial Case File or Project Number: OR-66772

BLM Office: Prineville District, Deschutes Resource Area, Prineville, Oregon

1. Decision

It is my decision that a right-of-way grant for a road 2,875 feet long by 24 feet wide (12 foot each side centerline), OR-66772, be granted to Central Oregon Basalt Products, LLC for access to the basalt quarry on their private land located in T. 9 S., R. 14 E., Sec. 15 and 22, Willamette Meridian (WM). The following public lands are affected:

Willamette Meridian, Oregon

T. 9 S., R. 14 E.

sec. 15, W $\frac{1}{2}$ SE $\frac{1}{4}$;

sec. 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

Jefferson County

Comprising approximately 1.6 acres.

2. Compliance

This action is in conformance with the authority of Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) and is subject to the terms and conditions in 43 CFR 2800. The grant is also subject to the stipulations contained in Exhibit A of the Grant.

It is also in conformance with the Two Rivers Resource Management Plan (RMP) Record of Decision, dated June 1986.

The proposed action has been reviewed and found to be in conformance with the RMP which states on page 32, "Applications will be reviewed on an individual basis for conformance with the Two Rivers RMP to minimize conflicts with other resources and users."

3. Proposed or Selected Alternative

The proposed action would authorize construction, operation, maintenance and termination of a 24 foot wide by 2,875 foot long right-of-way for a road across public lands. The right-of-way would include a road surface of 20 feet in width with a base of 24 foot in width constructed of 6-inch deep 2-inch minus crushed rock. Vegetation would be cleared on approximately 1.6 acres for the road. A number of best management practices are included in the proposed action and listed in Appendix A of the Environmental Assessment (EA). Once the right-of-way grant is signed by the BLM authorized officer, it will be in full force and effect.

4. FONSI Reference

Based on the information contained in the EA, the consideration of the context and intensity factors described in the Finding Of No Significant Impact (FONSI) dated October 21, 2011, and all other information available, it is determined that: 1) implementation of the proposed actions would not have significant environmental impacts beyond those already addressed in the Two Rivers Resource Management Plan EIS; 2) the proposed actions is in conformance with the Two Rivers Resource Management Plan; and 3) the proposed action would not constitute a major federal action having a significant effect on the human environment. Therefore, an EIS or a supplement to the existing EIS is not necessary and will not be prepared.

5. Public Involvement

Letters were sent to the listed interested public and the Confederated Tribes of the Warm Springs Reservation, the Burns Paiute Tribe, the Confederated Tribes of the Umatilla, and the Klamath Tribe. See the attached list. A public scoping period of two weeks was provided during which time no comments were received.

6. Rationale for the Decision

There is no other available access to the quarry on private land. The construction of the road will allow safe transport of the mineral mined from the quarry. The applicant has worked with the Oregon Department of Transportation and Jefferson County to ensure that safety issues regarding traffic are resolved. The project would not have an effect on public health or safety.

No Federally Threatened, Endangered, or Special Status species were observed during the 2011 survey of the project area. The project would not violate any Federal, State, Local or Tribal law or requirement imposed for the protection of the environment.

There are no pending mining claims within the project area. No cultural resources were observed during a review of the area by an archaeologist. There are no other rights-of-way or pending applications for rights-of-way across the described public land that would conflict with the proposed action.

The proposed action was considered by the BLM interdisciplinary team within the context of past, present, and reasonably foreseeable actions and significant cumulative effects are not predicted.

7. Protest and Appeal Opportunities

This decision constitutes my final decision and may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (3050 N.E. Third Street, Prineville, Oregon 97754) within 30 days from receipt of this decision. Notice of appeal must be sent certified mail. The appellant has the burden of showing that the decision appealed from is in error. Any request for stay of this decision in accordance with 43 CFR 4.21 must be filed with you appeal.

If you wish to file a petition (pursuant to regulation 3 CFR 4.21) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Exception as otherwise provided by law or other pertinent regulations, a petition for a 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.


Molly M. Brown
Field Manager, Deschutes Resource Area


Date