

## **Categorical Exclusion Documentation Format When Using Categorical Exclusions Not Established by Statute**

### **A. Background**

**BLM Office:** Marys Peak Resource Area      **Lease/Serial/Case File No:**

**Categorical Exclusion Number:** DOI-BLM-OR-S050-2012-0008-CX    **Date:** 02/3/2012

**Proposed Action Title/Type:** ODOT Hwy 34 Emergency Stabilization – Realty

**Location of Proposed Action:** T. 13 S., R. 7 W., Sec. 11, W.M., Benton County

Land Use Allocation(s): General Forest Management Area (GFMA)

#### **Description of Proposed Action:**

On January 31, 2012, the Oregon Department of Transportation (ODOT) notified the Salem District BLM office of a slide on Hwy 34 across BLM lands located in T. 13 S., R. 7 W., Section 11, W.M. that requires emergency stabilization. The Highway 34 fill failure washed out an old road prism associated with a decommissioned road below the Highway 34 fill slope. It will be necessary for the road crews to be on BLM property to make the highway repairs. The proposed action is to authorize a short-term FLPMA right-of-way to allow ODOT to excavate the slide and replace it with a rock buttress and shear key. Construction will take approximately one month to complete this winter or spring, but will be weather-dependent. Any repairs that will remain beyond the current right-of-way boundary authorized by ORE014410 will be amended into the authorization after the work is complete.

### **B. Land Use Plan Conformance**

This project is designed to conform and be consistent with the Salem District's 1995 Resource Management Plan (RMP). Following the March 31, 2011 decision by the United States District Court for the District of Columbia in *Douglas Timber Operators et al. v. Salazar*, which vacated and remanded the administrative withdrawal of the Salem District's 2008 Record of Decision (ROD) and RMP, we evaluated this project for consistency with both the 1995 RMP and the 2008 ROD and RMP. Based upon this review, the current proposed action contains some design features not mentioned specifically in the 2008 ROD and RMP. The 2008 ROD and RMP did not preclude use of these design features, and the use of these design features is clearly consistent with the goals and objectives in the 2008 ROD and RMP. Accordingly, this project is consistent with the Salem District's 1995 RMP and the 2008 ROD/RMP.

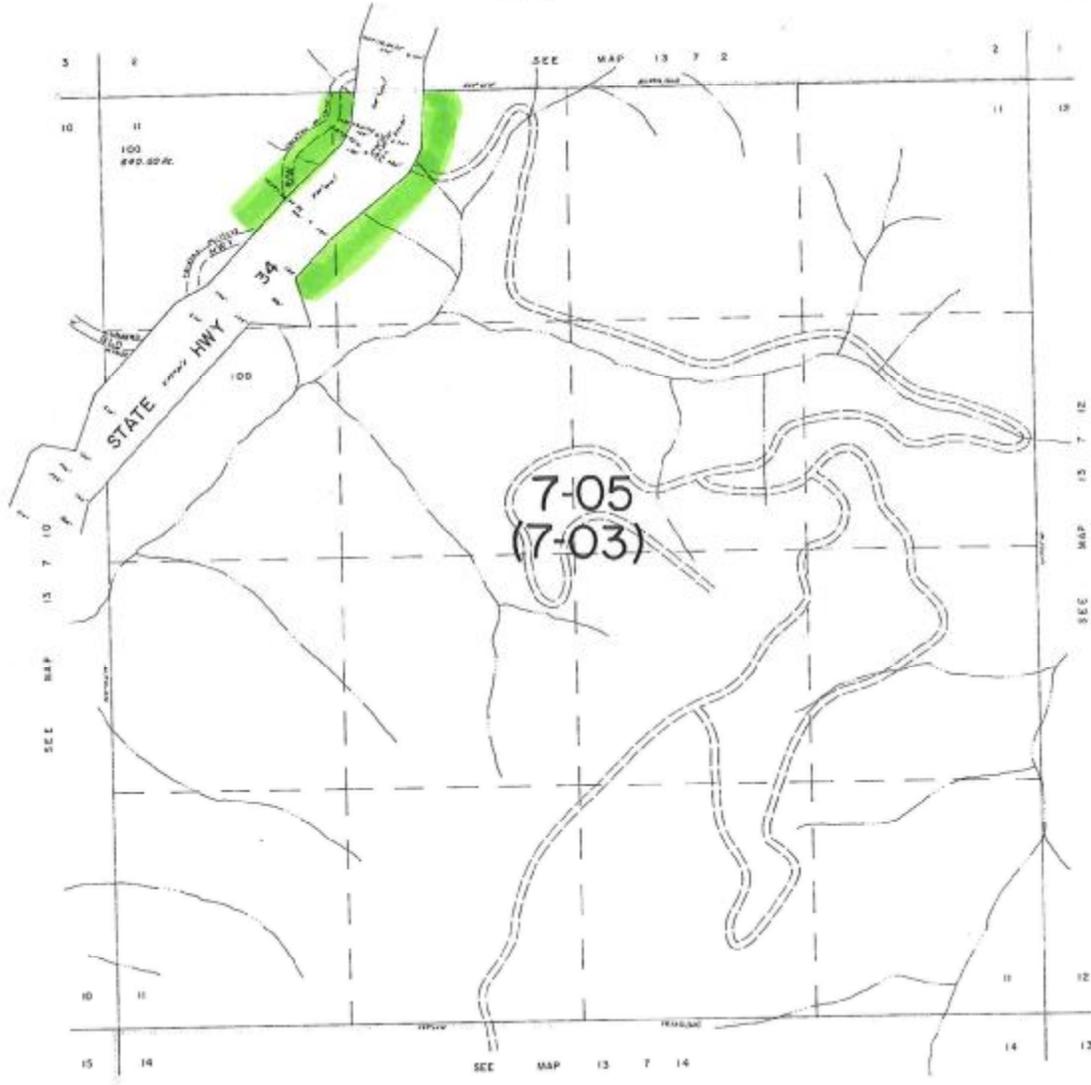
**Land Use Plan Name:** *Salem District Record of Decision and Resource Management Plan (1995 RMP)* **Date Approved** March 1995 **Date Amended:** The 1995 RMP was amended in January 2001 as documented in the *Record of Decision for Amendments to the Survey and Manage, Protection Buffer, and Other Mitigation Measures Standards and Guidelines*, dated January 2001 (SM/ROD).

The proposed action is in conformance with the Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s): 1995 RMP p.55 – Continue to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans.”

The map on the following page indicates the area in which the emergency stabilization work will occur.

SECTION 11 T.13S R.7W WM.  
BENTON COUNTY  
1"=400'

13 7 11  
REV. 3-29-03  
CAME



13 7 11

**C. Compliance with NEPA**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9 I which allows for “Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition as a result of the event.”

**Categorical Exclusions: Extraordinary Circumstances Review**

<b>Table 1: Categorical Exclusions: Extraordinary Circumstances Review (43 CFR 46.215)</b>		
<b>Will the Proposed Action documented in this Categorical Exclusion</b>	<b>Yes</b>	<b>No</b>
<p>(a) Have significant impacts on public health or safety?  <b>Rationale:</b> The proposed actions will have positive impacts on public health and safety.</p>		No
<p>(b) 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, floodplains, national monuments, migratory birds, other ecologically significant or critical areas?  <b>Rationale:</b>  <u>Soils and Hydrology:</u> The slide washed out an old road prism associated with a decommissioned road below the Highway 34 fill slope. A portion of the material reached Crooked Creek. Proposed renovation work would occur during late winter and early spring. Precipitation events would be expected during operations. Rock hauling and fill slope stabilization would generate sediment during precipitation events which could reach the stream channel which runs below the affected area. Because some of the generated sediment is expected to move downstream from the work site, the implementation of mitigation measures to reduce sediment delivery to the stream (silts fences, bark bags, hay bales, sediment traps) and cessation of work during heavy precipitation events will be the first line of defense to keep sediment from moving down slope towards the creek. However, turbidity generated at the site would be expected to remain in the water column for a half mile downstream. At that point the level of turbidity would most likely be within the natural range of values expected during winter storm events. The repair of the site using mitigation measures to stabilize the soil and landform will result in an immediated reduction in sediment delivery to the stream and a reduction in turbidity in the water column from the existing situation.  <u>Cultural Resources:</u> There are no identified historic or cultural resources within the stabilization area.  <u>Botany:</u> There are no known special habitat areas within the proposed project area.</p>		No

<b>Table 1: Categorical Exclusions: Extraordinary Circumstances Review (43 CFR 46.215)</b>		
<b>Will the Proposed Action documented in this Categorical Exclusion</b>	<b>Yes</b>	<b>No</b>
<u>Wildlife</u> : There are no special wildlife habitats affected by proposed action.		
(c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2) (E)]? <b>Rationale:</b> The effects of the emergency stabilization on the Hwy 34 slide are not controversial and there are no unresolved conflicts concerning alternative uses of available resources.		No
(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks? <b>Rationale:</b> The emergency stabilization project is necessary to protect public safety.		No
(e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects? <b>Rationale:</b> The proposed actions do not set a precedent for future actions that may have significant effects, nor does it represent a decision in principle about a future consideration. See (d), above.		No
(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects? <b>Rationale:</b> There are no cumulative effects; therefore there are no significant cumulative effects as a result of these actions.		No
(g) 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? <b>Rationale:</b> No properties listed, or eligible for listing are located within the project location.		No
(h) 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? <b>Rationale:</b> <u>Fisheries</u> : ESA listed threatened Oregon Coast (OC) coho salmon and critical habitat for OC coho are present in Crooked Creek approximately 1000 feet downstream from the road fill slope. The proposed action 'may affect' listed fish. Consultation is required for those activities where a may affect is anticipated to listed fish and critical habitat. Oregon Department of Transportation may have existing ESA consultation coverage for emergency road work on state and right-of-way lands. No additional consultation coverage would be required if ODOT provides a copy of this consultation documentation to BLM. In lieu of state consultation coverage the actions may be covered under the April 2011 <i>Endangered Species Act Programmatic Biological Opinion and Manguson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Conservation Recommendation for the Programmatic Activities of USDA Forest Service, USDI Bureau of Land Management, and Coquille Indian Tribe in Western</i>		No

Table 1: Categorical Exclusions: Extraordinary Circumstances Review (43 CFR 46.215)		
Will the Proposed Action documented in this Categorical Exclusion	Yes	No
<p><i>Oregon</i> (Refer to NMFS No: 2010/02700 (BLM)). Compliance with all applicable design features (PDF) including, but not limited to, Road Maintenance and Repair of Storm Damaged Roads PDFs is required to meet the Terms and Conditions of the programmatic BO.</p> <p><u>Wildlife</u>: No known T&amp;E species within vicinity.</p> <p><u>Botany/Mycology</u>: There are no known sites of any T&amp;E or bureau special status botanical or fungal species within the project area.</p>		
<p>(i) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?</p> <p><b>Rationale:</b> The proposed action conforms to the direction given for the management of public lands in the ROD/RMP, which complies with all applicable Federal, State, local and tribal laws.</p>		No
<p>(j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?</p> <p><b>Rationale:</b> The proposed action is not anticipated to have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.</p>		No
<p>(k) 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)?</p> <p><b>Rationale:</b> Past activities within this area have not resulted in tribal identification of concerns.</p>		No
<p>(l) 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> <p><b>Rationale:</b> All exposed mineral soil in the project area would be required to be sown with red fescue and blue wildrye (50-50 mixture) at a rate equal to 40 pounds per acre or sown with a seed mixture approved by the Marys Peak Resouce Area botanist. Sowing exposed mineral soil areas with this mixture would reduce the establishment of non-native plants within the project area. Since the mineral soil in this area was caused by a natural event, if the area is not sown with a desirable species a larger amount of non-native weeds would be expected to occupy the site. The risk rating for the long-term establishment of noxious weeds within this site would remain low due to the sowing of seed and due to the Marys Peak Noxious Weed Control Program.</p>		No

This 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 12 extraordinary circumstances described in 43 CFR Part 46, Section 46.215 (see Table 1, above) apply.

I considered and reviewed the effects of the following additional elements of the environment required by management direction. Table 2 shows the effects of the proposed action on these elements of the environment.

<b>Table 2: Additional Elements of the Environment</b>		
<b>Elements of the Environment</b>	<b>Status: Not Present, Not Affected, or Affected</b>	<b>Remarks</b>
Aquatic Conservation Strategy	Not Affected	This action will have no effects on Aquatic Conservation Strategy Objectives.
Energy (Executive Order 13212)	Not Affected	There is no known energy resources located in the project area. The proposed action will have no adverse effect on energy development, production, supply and/or distribution.
Essential Fish Habitat (Magnuson-Stevens Fisheries Conservation Management Act)	Not Affected.	This action will have no adverse affects on MSA species or EFH.
Hazardous or Solid Wastes	Not Present	No hazardous or solid wastes are on the lands proposed to be added to the right-of-way agreement. No hazardous or solid wastes would be produced by the proposed action.
Special Status (except T/E) or other rare or uncommon species/habitat	Not Present	<u>Wildlife</u> : Bald Eagle nest 0.5 miles South is beyond disturbance concern for this Bureau Sensitive species. <u>Botany</u> : There are no known Special Status Species sites, and no habitat modification would occur.

The proposed action has no effect on the elements of the environment described above; therefore there is no potential for significant impacts.

**D. Signature**

Specialist Review and Concurrence

<b>Resource</b>	<b>Name</b>	<b>Initial</b>
Aquatic/Fisheries	Scott Snedaker	<i>SMS</i>
Botany	Ron Exeter	<i>RLE</i>
Cultural Resources	Heather Ulrich	<i>HAU</i>
Engineering	Steve Cyrus	<i>SC</i>
Hydrology	Steven Wegner	<i>SJW</i>
NEPA Compliance	Stefanie Larew	<i>SNL</i>

Resource	Name	Initial
Team Lead	Jodi Murphy	JM
Wildlife	Scott Hopkins	SH

**Authorized Official:** Diane Morris  
**Name:** Diane Morris  
**Title:** Marys Peak Resource Area Field Manager

**Date:** 2/3/2012

**Contact Person:** For additional information concerning this CX review, contact Jodi Murphy, Realty Specialist, Salem District BLM, 1717 Fabry Rd SE, Salem, OR 97306, (503) 589-6854.

U.S. DEPARTMENT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
SALEM DISTRICT, MARYS PEAK RESOURCE AREA

**Decision Record**

Based on the attached Categorical Exclusion Documentation DOI-BLM-OR-S050-2012-0008-CX, I have determined that the proposed action, to authorize additional BLM lands outside of the existing right-of-way to be used during the emergency stabilization project of Hwy 34, involves no significant impacts to the human environment and requires no further environmental analysis.

It is my decision to authorize the emergency stabilization work, as described in the attached Categorical Exclusion Documentation DOI-BLM-OR-S050-2012-0008-CX.

Implementation: This project will be implemented February 2012.

Contact Person: For additional information concerning this CX review, contact Jodi Murphy, Realty Specialist, Salem District BLM, 1717 Fabry Rd SE, Salem, OR 97306, 503-589-6854.

Authorized Official: *Diane Morris*  
Diane Morris  
Marys Peak Resource Area Field Manager

Date: *8/3/2012*