RECORD OF PLAN CONFORMANCE AND CATEGORICAL EXCLUSION (CX) DETERMINATION

CX Log #: DOI-BLM-ORV060-2014-046-CX
CE Exemption category: 516 DM 11.9, E.9: Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

BLM Office: Vale District Bureau of Land Management, 100 Oregon Street, Vale, Oregon 97918
Phone #: 541-473-3144

BACKGROUND:
Project Name: Renewal of existing drainage ditch ROW authorized under OR-49752.
Applicant: OR Dept. of Transportation
Location of Proposed Action: T. 39S, R. 42E, Section: 26

DESCRIPTION OF THE PROPOSED ACTION: On March 24, 2014, the OR Dept. of Transportation submitted an application (SF-299) requesting a renewal of a drainage ditch ROW issued under OR-49752 for the continued use of a drainage ditch which is located in Malheur County, Oregon (Exhibit B). This project will require no new or additional construction. It is a renewal of an existing ROW.

PLAN CONFORMANCE
All actions approved or authorized by the BLM must conform to the existing land use plan where one exists (43 CFR 1610.5-3, 516 DM 11.9). Although it is not a NEPA requirement, the BLM includes within all its NEPA documents a statement about the conformance of the proposed action and alternatives with the existing land use plan. The BLM's planning regulations state that the term "conformity" or "conformance" means that "… a resource management action shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan or amendment" (43 CFR 1601.0-5(b)).

The proposed action is also in conformance with the management objectives of the Southeastern Oregon Resource Management Plan (SEORMP, Sept. 2002), *General Planning Criteria*, cited on page 9 of the RMP. The proposed action conforms to program-specific objectives of the SEORMP which are cited on page 108 – 111. This project will require no new or additional construction. It is a renewal of an existing ROW. Exclusion areas are: wilderness areas and wild river segments. Avoidance areas are Wilderness Study Areas, ACEC's and scenic and recreation river segments.

DOCUMENTATION OF CATEGORICAL EXCLUSIONS: EXTRAORDINARY CIRCUMSTANCES
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 circumstances described in 516 DM 2, Appendix 2, and listed below apply.

Yes	No	Extraordinary Circumstances	Initials	Date
		1. Have significant impacts on public health or safety.		
		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.		
		3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		
		4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
		5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		
		6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
	X	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.	CB	4-30-2014
	X	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.	SF (plants) MM (wildlife)	4.17.14 4.24.14
		9. Violate a Federal law, or a State, local, or Tribal law or requirement imposed for the protection of the environment.		
		10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
	X	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).	CB	4-30-14
	X	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).	ls	4-16-14

DOCUMENTATION OF RECOMMENDED MITIGATION

For any item(s) above checked "Yes", proposed mitigating measures for those items are listed below. If the extraordinary circumstances cannot be mitigated, the criteria required for a CE are not met and BLM must prepare an EA or EIS.

Item No.	Can Be Mitigated	Cannot Be Mitigated	Mitigation Measures	Reviewer	Date

SUMMARY OF FINDINGS AND DETERMINATION

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with the Departmental Manual Categorical Exclusions list, sections of which are cited and quoted above. The proposed action has also been reviewed in relation to the above listed 12 Extraordinary Circumstances in accordance with the Departmental Manual, and none of these circumstances apply.

DECISION RECORD

Based on the enclosed Categorical Exclusion Documentation, DOI-BLM-ORV060-2014-046-CX, I have determined that the proposed action to authorize the renewal of the existing drainage ditch ROW authorized as OR-49752 involves no significant impacts to the human environment and requires no further environmental analysis. It is my decision to authorize this action as proposed. For additional information concerning this project, contact Project Lead Trisha Skerjanec, Vale District Office, 100 Oregon Street, Vale, Oregon 97918. Phone (541) 473-3144.

Trisha A Skerjanec — Realty Specialist — 6/3/14

Prepared By: — Title — Date

Reviewed By: — Title — Date

Field Mgr. — 6/3/14

Authorizing Official — Title — Date

Exhibit A

April 2014

a. No reconstruction or maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3 inches deep, the soil shall be deemed too wet to adequately support construction equipment.

b. Maintenance related traffic to and from work sites shall be restricted to existing roads and trails as much as possible. If "cross country" or travel along the right-of-way is necessary, no blading or access road construction is permitted.

c. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation and coordination with the BLM Weed Coordinator and/or local authorities for acceptable weed control methods and products prior to implementing weed treatments. Use of all herbicides shall comply with applicable Federal and State laws and the Label.

d. Any cultural and/or paleontological resource (historic or prehistoric site or object, or fossil) discovered by the holder, or any persons working on his behalf on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and mitigation, and any decision as to proper avoidance, protection or mitigation measures will be made by the authorized officer after consulting with the holder and others under Section 106 of the National Historic Preservation Act.

e. Pursuant to 43 CFR 10.4(g), the holder of this authorization must immediately notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. The BLM Authorized Officer will determine avoidance, protection or mitigation measures in consultation with the Holder, Oregon SHPO, and affected Tribes. Costs associated with the discovery, evaluation, protection or mitigation of the discovery shall be the responsibility of the holder.

f. The holder shall notify the Authorized Officer at least 30 days prior to any non-emergency activities that would cause surface disturbance in the right-of-way. The Authorized Officer will determine if a cultural resource inventory, treatment or mitigation is required for the activity. The holder will be responsible for the cost of inventory, avoidance, treatment or mitigation; including any maintenance-caused damage. The Authorized Officer will determine avoidance, treatment and mitigation measures that are necessary after consulting with the holder and under Section 106 of the National Historic Preservation Act.

g. The holder shall not initiate any construction or other surface disturbing activities (including non-emergency operations or maintenance activities) on the right-of-way without the prior written

authorization of the authorized officer. Such authorization shall be a written notice to proceed issued by the authorized officer. Any notice to proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described.

h. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions of the Survey of the Public Lands of the Unites States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

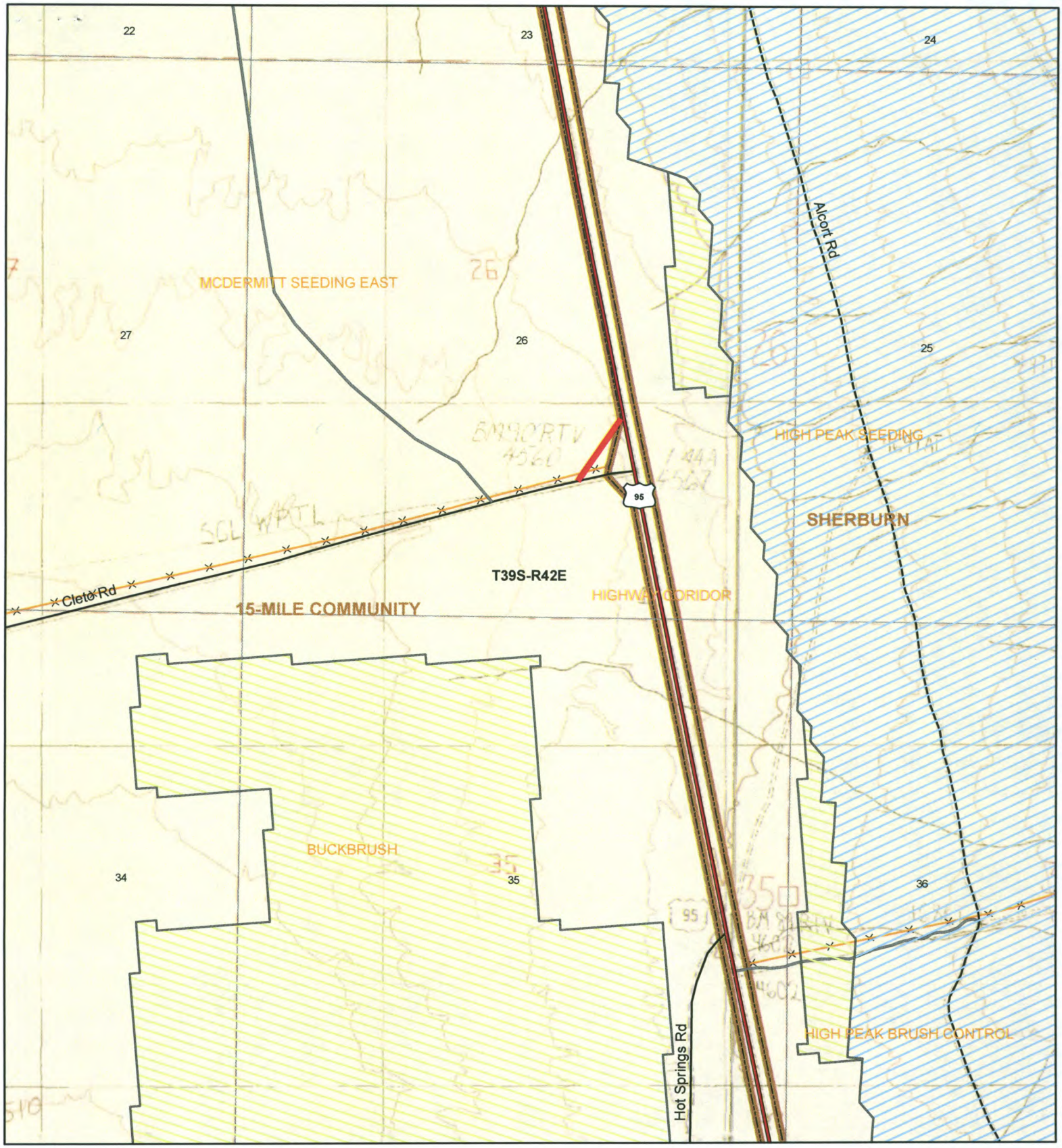
i. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (43 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

j. The holder shall conduct all activities associated with the construction, operations, and termination of the right-of-way within the authorized limits of the right-of-way.

k. The holder shall take such measures for prevention and suppression of fire on the grant area and adjacent public lands or public lands used or traversed by the holder in connection with operations as are required by applicable laws and regulations.

l. The authorized officer reserves the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.

m. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.



Legend

- ODOT
- County route
- Bureau of Land Management
- Allotment
- Preliminary General Habitat (PGH)
- Preliminary Priority Habitat (PPH)
- Bureau of Land Management
- Private

0 0.125 0.25 0.5 Miles

0 220 440 880 Meters

N W E S

U.S. Department of Interior
Bureau of Land Management

Vale District

April 2014

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OR-49752 Oregon Dept. of Transportation