

**Department of the Interior
Bureau of Land Management
Central Yukon Field Office**

1150 University Avenue
Fairbanks, Alaska 99709
(907) 474-2200

**Categorical Exclusion
Filming on public lands
Applicant: Scott Luber
Case File Number: F-96432
DOI-BLM-AK-03000-2012-0023-CX**



Location:

Sec. 13, T. 33 N., R. 10 W., Fairbanks Meridian,
containing approximately 640.00 acres

Prepared By:

Central Yukon Field Office

June 2012

CATEGORICAL EXCLUSION

A. Background

From August 7, 2009 to August 14, 2009, Scott Luber conducted video filming on public lands. At the time the filming was only for personal use. Now they want to start a business and sell the video.

BLM Office: Central Yukon Field Office Lease/Serial/Case File No: F-96432

Environmental Document No: DOI-BLM-AK-03000-2012-0023-CX

Proposed Action Title/Types: The applicant proposes to obtain a permit after the fact for filming on public lands. He has since started a business and wants to sell the video.

Location of Proposed Action: Sec. 13, T. 33 N., R. 10 W., Fairbanks Meridian, containing approximately 640 acres, depicted on USGS Quad Chandalar C-6.

Description of Proposed Action:

From August 7, 2009 to August 14, 2009, the applicant and one additional person drove the Dalton Highway to approximately mile post 210, parked their vehicle and walked east onto public lands with the intent to film a backpacking and hunting trip. Filming was done with a hand held video camera occasionally using a small tripod. No other gear was taken except food supplies and water and they would camp out using their tent. Filming of their trip at the time was for personal use, but they want to start a business and sell the video. The applicant now realizes that he should have gotten a permit and now wants to remedy the situation.

Applicant (if any): Scott Luber

B. Land Use Plan Conformance 43 CFR 1610.5-3(a)

The proposed action is in conformance with the applicable LUPs because it is specifically provided for in the following LUPs:

Utility Corridor Resource Management Plan approved January 11, 1991.

The proposed action is in conformance with plan because it is specifically provided for in the following planning decision (objectives, terms, and conditions):

Appendix N Lands Program Objectives (page N 7- 9)

7. Process applications for land use authorizations from the general public, Federal and State agencies and research organizations on a case-by-case basis.

C. NEPA Compliance

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with United States Department of the Interior 43 CFR §46.210 or United States Department of Interior Manual, Part 516, Chapter 11 which provides:

11.9 E (Realty)

- (20) Issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass actions where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural original condition.

D. Extraordinary Circumstances

The following Departmental List of Extraordinary Circumstances applies to individual actions. Departmental instructions mandate that environmental documents must be prepared for actions which may:

	YES	NO
1. Have significant adverse impacts on public health or safety.	_____	_____ X
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
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].	_____	_____ X
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	_____ X
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	_____ X
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.	_____	_____ <u>X</u>
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.	_____	_____ <u>X</u>
9.	Violate Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.	_____	_____ <u>X</u>
10.	Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).	_____	_____ <u>X</u>
11.	Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affects the physical integrity of such sacred sites (Executive Order 13007).	_____	_____ <u>X</u>
12.	Contribute to the introduction, continued existence, or spread of 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).	_____	_____ <u>X</u>

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 extraordinary circumstances in 43 CFR §46.215 are pertinent.

F. Signature

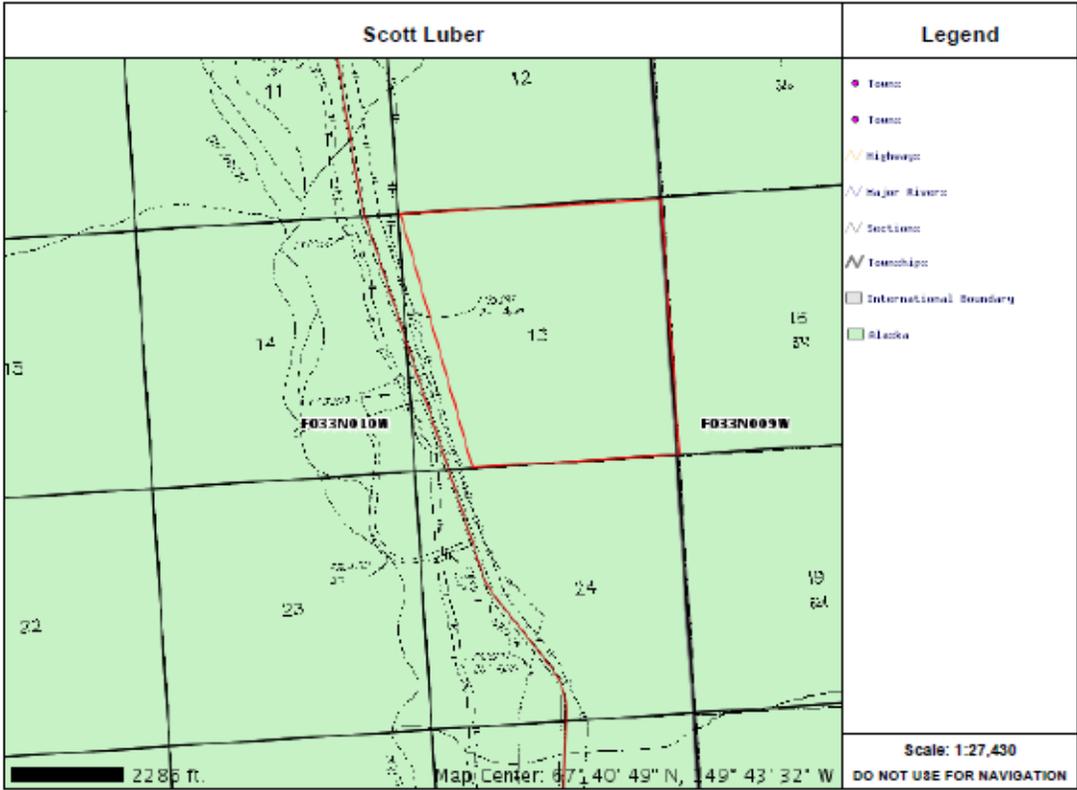
The proposed action is in conformance with a management framework plan or a resource management plan, 43 CFR § 1610.8(a)(3). The Department of the Interior has determined and found that the proposed action is within a category of actions that do not individually or cumulatively have a significant effect on the human environment and that neither an environmental assessment nor an environmental impact statement is required, 40 CFR §1508.4.

It is therefore my decision to implement the action, as described, with appropriate mitigation measures or stipulations.

Mitigation Measures/Stipulations: (See Attached Appendices)

Authorized Official: /s/ Nichelle W. Jacobson
CYFO Manager

Date: August 17, 2012



**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

**Central Yukon Field Office
1150 University Avenue
Fairbanks, Alaska 99709
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DECISION RECORD

**Scott Luber
Filming on Public Lands
F-96432
DOI-BLM-AK-03000-2012-0023-CX**

Decision:

It is my decision to authorize a Permit, case file number F-96432 for filming on public lands from August 7, 2009 to August 14, 2009 to Scott Luber. Issuing this permit will resolve the unauthorized use issue. Mitigation measures, stipulations and conditions are attached.

Rationale for the Decision:

1. The proposed action is consistent with the use of public lands under the authority of Sec. 302 of the Federal Land Policy and Management Act and the regulations found in 43 CFR 2920.
2. All concerns are appropriate addressed in the CX DOI-BLM-AK-03000-2012-0023. This includes cultural resources and subsistence concerns (see attached NHPA Section 106, ANILCA 810 findings, boundary risk and wilderness characteristic assessments and essential fish habitat).

The proposed action is in conformance with the approved Bureau of Land Management Utility Corridor approved January 11, 1991. The project has been considered in the context of public health and safety and consistency with regards to Federal, State, and local laws.

Appeal Procedures

This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with 43 CFR Part 4 and DOI Form 1842-1. The notice of appeal must be filed in the Bureau of Land Management Central Yukon Field Office (at the above address) within 30 days from receipt of this decision.

If you decide to file an appeal, you must carefully follow the procedure described on the enclosed form 1842-1. If you don't file your appeal at the locations specified on the form within 30 days, the Board may dismiss your appeal as untimely without considering its merits. Be sure to send a copy of your notice of appeal to each party named in this decision and to all of the addresses on the enclosed form 1842-1.

You may also ask the Board to stay or suspend the effect of this decision while your appeal is pending. If you desire a stay, you must enclose your request for a stay with your notice of appeal. You have the burden of showing a stay is justified.

The Board will grant a stay only if you provide sufficient justification based on the following standards:

- a. The relative harm to the parties if the Board grants or denies the stay,
- b. The likelihood of the success of your appeal on its merits,
- c. The likelihood of immediate and irreparable harm if the Board does not grant the stay, and;
- d. Whether the public interest favors granting a stay.

/s/ Nichelle W. Jacobson
Nichelle W. Jacobson
Manager, Central Yukon Field Office

August 17, 2012
Date

Contact Person:

For additional information concerning this decision, contact Robin Walthour, Realty Specialist, Central Yukon Field Office, 1150 University Avenue, Fairbanks, Alaska 99709 or by telephone at (907) 474-2304.