

**NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)
COMPLIANCE RECORD FOR CATEGORICAL EXCLUSIONS (CX)
U.S. Department of Interior
Bureau of Land Management**

PART I. – PROPOSED ACTION

BLM Office: Tucson Field Office

NEPA No.: G020-2014-0022-CX

Case File No.: AZA 036563

Proposed Action Title/Type: Old Divide Road Right-Of-Way and Temporary Use Permit Issuance

Applicant: Cochise County Highway and Floodplain Division

Location of Proposed Action: T.23S, R.24E, Sec. 6, Lots 17 and 22; Sec. 7, Lot 7 G&SRM; (31.46/-109.94); Approximately 1 mile northwest of the town of Bisbee, AZ

Description of Proposed Action: On July 10, 2014, the Cochise County Highway and Floodplain Division filed an application for a Temporary Use Permit (TUP) to repair Old Divide Road, which is approximately 1 mile northwest of the town of Bisbee, AZ. Additionally, the County submitted an application for a Right-of-Way (ROW) issuance on the 0.5 mile segment of road that lies on Bureau of Land Management land. The purpose of the Right-of-Way (ROW) is to restore and maintain historic circulation, residential access and historical access along Old Divide Road. Cochise County has maintained this road since 1889. This action will provide physical and legal access over public land to private land owners using the existing road. This will also provide an emergency bypass route for the Highway 80 Mule Pass Tunnel, should it ever become impassable.

The purpose of the TUP issuance is for the repair, installation and replacement of essential erosion control structures; and construction of culverts along the road. Recently, a fire caused by the Arizona Department of Transportation (ADOT) in this area damaged the BLM lands. This has resulted in flood damage to Old Divide Road. ADOT has awarded Cochise County with settlement funds to repair the road.

The TUP would involve the following activities: repair of culvert and erosion control construction in two areas, totaling @ 1 acre. The County is requesting a time frame of twelve months to complete the construction, with 3 of those months being when active construction takes place.

The proposed action for the ROW qualifies as a CX under Departmental Manual 516, Chapter 11, Section E.16 that reads, "Acquisition of easements for an existing road or issuance of leases, permits, or rights of way for the use of existing facilities, improvements, or sites for the same or similar purposes".

The proposed action for the TUP also qualifies as a CX under Departmental Manual 516, Chapter 11, Section I.1 that reads, "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. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads..."

On August 7, 2014, the Tucson Field Office Archaeologist traveled to the site and did a review and records search on cultural issues of the area, and nothing of cultural or archaeological concern was found. An active & authorized record search was done on the area on July 30, 2014. There are no active mining claims. The area is located within the Susnow and Wildcat Canyon Grazing Allotments. These allotments are not expected to be an issue for the ROW/TUP or vice-versa.

A wildlife survey for threatened and endangered species was conducted on August 7, 2014, and the biologist has attached recommended stipulations.

The TUP will be issued for a three year term and the ROW grant will be issued for a thirty year term, both with the right of renewal. These authorizations will be issued under Title V of FLPMA.

Part II. – PLAN CONFORMANCE REVIEW

This proposed action is subject to the following land use plan(s): This proposed action conforms to the following land use plan: Safford District Resource Management Plan (RMP).

Decisions and page nos.: Page 22: "Rights-Of-Way, leases and permits will be considered on a case-by-case basis, in accordance with the decision of the Resource Management Plan."

Date plan approved/amended: Record of Decision approved September 1992 and amended July 1994.

This proposed action has been reviewed for conformance with these plans (*43 CFR 1610.5-3, BLM Manual 1601.04.C.2*).

PART III. – NEPA COMPLIANCE DETERMINATION REVIEW

A. The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9 For the ROW issuance: Chapter 11, Section E, number 16 states:

Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

For the TUP: Chapter 11, Section I, number 1 states:

The proposed action for the TUP qualifies as a CX under Departmental Manual 516, Chapter 11, Section I.1 that reads, "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. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads...";

And

B. Extraordinary Circumstances Review: In accordance with **43 CFR 46.215**, any action that is normally categorically excluded must be subjected to sufficient environmental review to determine if it meets any of the 12 Extraordinary Circumstances described. If any circumstance applies to the action or project, and existing NEPA documentation does not adequately address it, then further NEPA analysis is required.

IMPORTANT: Appropriate staff should review the circumstances listed in Part IV, comment and initial for concurrence. Rationale supporting the concurrence should be included in the appropriate block.

Part IV. – EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION

PREPARERS:

DATE:

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| NEPA Team Members | July 8, 2014 |
| Leslie Uhr - Realty Specialist Trainee | 9/9/2014 |
| Linda Dunlavey - Realty Specialist | 8/11/2014 |
| Amy Sobiech - Archaeologist | 8/7/2014 |
| Heather Swanson - Natural Resource Specialist | 8/7/2014 |
| Ben Lomeli - Hydrologist | 8/7/2014 |
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/s/Amy Markstein
 PLANNING & ENVIRONMENTAL SPECIALIST

9/10/2014
 DATE

The action has been reviewed to determine if any of the extraordinary circumstances (43 CFR 46.215(a)-(l)) apply. The project would:

(a) Have significant impacts on public health or safety.

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| Yes | No | Rationale: No significant environmental effects are expected. |
| | X | |
| | | Preparer's Initials <u> lau </u> |

(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 (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

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| Yes | No X | <p>Rationale: No 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; and other ecologically significant or critical areas exist in the affected environment nor would any of these resources be impacted. There are no occurrences of BLM sensitive or State listed species within the project area.</p> <p style="text-align: right;">Preparer's Initials <u>hs/bl</u></p> |
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(c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].

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| Yes | No X | <p>Rationale: The proposed action is not controversial nor are there any unresolved conflicts concerning alternative uses of available resources.</p> <p style="text-align: right;">Preparer's Initials <u>lau</u></p> |
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(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

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| Yes | No X | <p>Rationale: No significant environmental effects are expected..</p> <p style="text-align: right;">Preparer's Initials <u>lau</u></p> |
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(e) Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.

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| Yes | No X | <p>Rationale: Future actions regarding this project, if any, would require processing in accordance with laws, regulations, and policy and does not establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects. Any additional proposals would be analyzed and a separate decision would be arrived at based on the analysis.</p> <p style="text-align: right;">Preparer's Initials <u>lau</u></p> |
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| <p>(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.</p> | | |
| <p>Yes</p> | <p>No X</p> | <p>Rationale: The effects of the proposed grant would be limited to the issued grant.</p> <p style="text-align: right;">Preparer's Initials <u> lau </u></p> |
| <p>(g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.</p> | | |
| <p>Yes</p> | <p>No X</p> | <p>Rationale: No properties listed, or eligible for listing, on the National Register of Historic Places are within the project area nor would any properties be affected by the proposed project because no sites have been identified on the property site.</p> <p style="text-align: right;">Preparer's Initials <u> as </u></p> |
| <p>(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.</p> | | |
| <p>Yes</p> | <p>No X</p> | <p>Rationale: The Lesser Long-nosed Bat utilizes the area between April to September. Since this project will take place between October to March there will be no direct effect to the species. Agave in the project area will be removed and transplanted away from the project site by the BLM Natural Resource Specialist, mitigating any potential damage to the species resource. No other listed species or species proposed to be listed are found within the affected environment for the proposed action.</p> <p style="text-align: right;">Preparer's Initials <u> hs </u></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>Yes</p> | <p>No X</p> | <p>Rationale: No laws or requirements imposed for the protection of the environment would be violated.</p> <p style="text-align: right;">Preparer's Initials <u> as </u></p> |
| <p>(j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).</p> | | |

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| Yes | No X | <p>Rationale: The effects to the population as a whole resulting from the proposed action would be the same.</p> <p style="text-align: right;">Preparer's Initials <u> lau </u></p> |
| <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> | | |
| Yes | No X | <p>Rationale: No limitations to access sacred or any other sites would result from the proposed action.</p> <p style="text-align: right;">Preparer's Initials <u> as </u></p> |
| <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> | | |
| Yes | No X | <p>Rationale: A term and condition of the Temporary Use Permit is to require all vegetative matter and soil be removed from all project equipment prior to mobilizing on site.</p> <p style="text-align: right;">Preparer's Initials <u> lau </u></p> |
| <p>PART V. –COMPLIANCE REVIEW CONCLUSION I have reviewed this plan conformance and NEPA compliance record, and have determined that the proposed project is in conformance with the approved land use plan and that no further environmental analysis is required.</p> <p>MITIGATION MEASURES/OTHER REMARKS: See Attached Stipulations, listed as Exhibit A.1 and Exhibit A.2</p> <p>/s/Viola Hillman (Field Manager), 09/10/2014</p> <p>APPROVING OFFICIAL: _____ DATE: _____</p> <p>TITLE: _____</p> | | |

Note: The signed conclusion on this compliance record is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. A separate decision to implement the action should be prepared in accordance with program specific guidance.