

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
BURNS DISTRICT OFFICE

CATEGORICAL EXCLUSION ENVIRONMENTAL REVIEW AND APPROVAL

A. Background

Categorical Exclusion (CX) Number: DOI-BLM-OR-B050-2015-0041-CX

Date: June 23, 2015

Case File/Serial Number: OROR-67902

Preparer/Title: Tara McLain, Realty Specialist

Applicant: Bureau of Land Management (BLM)/Rattlesnake Creek Land and Cattle, LLC

Title of Proposed Action: Mill Creek Road Easement Acquisition

In 2013, BLM Burns District began acquiring a series of road access easements on Mill Creek Road where it falls on private property for resource work and commercial hauling of timber.

Description of Proposed Action and Project Design Elements (PDE):

The proposed action is for BLM to acquire a non-exclusive (administrative) road access easement under the authority of Section 205 of the Federal Land Policy and Management Act (FLPMA) on Mill Creek Road from private individuals in late 2015/early 2016. The purpose and need for the easement would be to provide legal access across private property on the Mill Creek Road, an existing BLM road, for administrative purposes.

The easement would provide for access from the Rattlesnake County Road to public lands north of Highway 20 between Rattlesnake Creek and Soldier Creek. Legal, non-exclusive (administrative) access on this portion of the road is critical for upcoming commercial timber sales and other BLM administrative purposes. The Mill Creek Road is an undeveloped existing road constructed from native soils and has been in existence for 20+ years.

The easement acquired would be approximately 687 feet long and 15 feet from center line (30 feet total width) for approximately one-half acre of total easement. The BLM may need to complete road improvement on the private ground to ensure the road is adequate for hauling commercial timber and for providing safe passage for employees, contractors, and permittees. This road improvement may include moving the road 5-7 feet to the east to ensure safe passage past the stream, grading, and adding rock to portions of the road as necessary.

Legal Description: See Exhibit A Map

Willamette Meridian, Oregon

T. 21 S., R. 32 E.,

sec. 36, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.

B. Conformance with Land Use Plan (LUP)

LUP Name and Date Approved/Amended: Three Rivers Resource Management Plan (RMP) and Record of Decision (ROD)

Date Approved/Amended: September, 1992

The proposed action is in conformance with the applicable LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision: LR 4.1, page 2-188 - Acquire and maintain legal public and administrative access to public land consistent with other resource values.

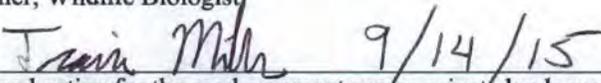
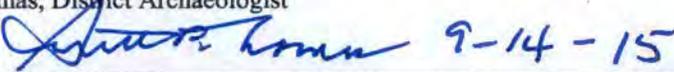
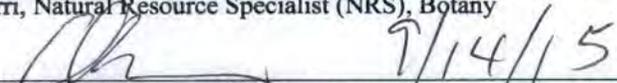
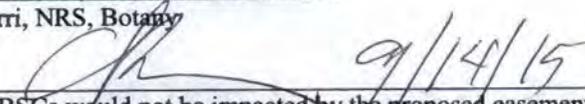
C. Compliance with the National Environmental Policy Act (of 1969) (NEPA)

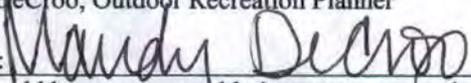
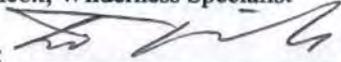
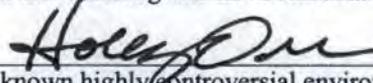
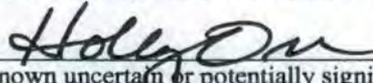
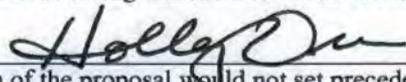
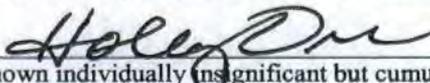
Bureau of Land Management CX Reference (516 DM 11.9):

E.(16) – 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.

Screening for Exceptions:

The following extraordinary circumstances (516 DM 2, Appendix 2) may apply to individual actions within the categorical exceptions. The indicated specialist recommends the proposed action does *not*:

CATEGORICAL EXCLUSION EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION	
2.1	Have significant impacts on public health or safety.
Specialist: John Petty, Safety Officer	
Signature and Date:  10/29/2015	
Rationale: No significant impacts on public health or safety because the roads and ways are open to the public and can be travelled under the definition of casual use at any time.	
2.2	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); flood plains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
<u>Migratory Birds</u>	
Specialist: Travis Miller, Wildlife Biologist	
Signature and Date:  9/14/15	
Rationale: The proposed action for the road easement across private lands would have no effect on migratory birds because there would be negligible disturbance effects to migratory birds during construction and maintenance activities. Migratory bird species would most likely flee the area of disturbance. However, these disturbances impacts would be small in scale (less than a couple acres) and short-lived (less than a day) and would cease once work is completed.	
<u>Historic and Cultural Resources</u>	
Specialist: Scott Thomas, District Archaeologist	
Signature and Date:  9-14-15	
Rationale: No cultural or historic resources would be affected by the proposed easement because the road use would not be substantially different than previous uses on the existing road and the use is limited to the existing road which is already a disturbed area.	
<u>Areas of Critical Environmental Concern (ACEC)/Research Natural Areas (RNA)</u>	
Specialist: Caryn Burri, Natural Resource Specialist (NRS), Botany	
Signature and Date:  9/14/15	
Rationale: There are no ACECs/RNAs within the proposed easement acquisition area.	
<u>Water Resources/Flood Plains</u>	
Specialist: Lindsay Davies, Fish Biologist	
Signature and Date:  9/14/2015	
Rationale: Executive Order 11988 (Floodplain Management), requires agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. This easement would be outside of the current floodplain and therefore meeting the requirements of Executive Order 11988.	
Executive Order 11990 (Protection of Wetlands) requires agencies to avoid, to the extent possible, the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. This easement is outside of any wetland. In addition, the road will be moved further from Coffeepot Creek and its associated riparian habitat, reducing the current road effects to the riparian area.	
<u>Soils, Biological Soil Crust (BSC), Prime Farmlands</u>	
Specialist: Caryn Burri, NRS, Botany	
Signature and Date:  9/14/15	
Rationale: Soils and BSCs would not be impacted by the proposed easement acquisition. Any road work would occur on private lands and would occur within the current disturbed roadbed.	

<u>Recreation/Visual Resources</u>	
Specialist: Mandy DeCree, Outdoor Recreation Planner	
Signature and Date:	 7/13/2015
Rationale: There would be no measurable impacts to recreation or visual resources. The easement is in a Visual Resource Management Class IV area which allows modification of the character of the landscape; there would be no change in the current use as an access road.	
<u>Wilderness/Wild and Scenic River(WSR) Resources</u>	
Specialist: Tom Wilcox, Wilderness Specialist	
Signature and Date:	 7/13/2015
Rationale: There are no Wilderness Study Areas (WSA), WSRs, Wilderness, or Lands with Wilderness Characteristics in the project area.	
2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA Section 102(2) (E)).	
Specialist: Holly Orr, District Planning and Environmental Coordinator	
Signature and Date:	 10/1/15
Rationale: There are no known highly controversial environmental effects or unresolved conflicts concerning alternative uses of available resources. The Mill Creek Road is an existing road which is over 20 years old; road access and road maintenance have occurred in the past and will continue in the future; there is no new road or disturbance proposed.	
2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	
Specialist: Holly Orr, District Planning and Environmental Coordinator	
Signature and Date:	 10/1/15
Rationale: There are no known uncertain or potentially significant environmental effects or unique or unknown environmental risks. The Mill Creek Road is an existing road which is over 20 years old; road access and road maintenance have occurred in the past and will continue in the future; there is no new road or disturbance proposed.	
2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	
Specialist: Holly Orr, District Planning and Environmental Coordinator	
Signature and Date:	 10/1/15
Rationale: Implementation of the proposal would not set precedence for future actions or represent a decision in principle about future actions with potentially significant environmental effects. The Mill Creek Road is an existing road which is over 20 years old; road access and road maintenance have occurred in the past and will continue in the future; there is no new road or disturbance proposed.	
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	
Specialist: Holly Orr, District Planning and Environmental Coordinator	
Signature and Date:	 10/1/15
Rationale: There are no known individually insignificant but cumulatively significant environmental effects. The Mill Creek Road is an existing road which is over 20 years old; road access and road maintenance have occurred in the past and will continue in the future; there is no new road or disturbance proposed.	
2.7 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.	

Specialist: Scott Thomas, District Archaeologist
Signature and Date: <i>Scott Thomas</i> 9-14-2015
Rationale: No National Register eligible properties would be affected by the proposed easement because the road use would not be substantially different than previous uses on the existing road and the use is limited to the existing road which is already a disturbed area.
2.8 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>Endangered or Threatened Species - Fauna</u> Specialist: Travis Miller, Wildlife Biologist
Signature and Date: <i>Travis Miller</i> 9/14/15
Rationale: There are no threatened and endangered (T&E) wildlife species or designated critical habitat within the proposed easement area. There would be no effect on Greater Sage-Grouse as a result of the proposed easement on private land because it is outside the four mile buffer of any lek and this area is not located in either preliminary priority habitat (PPH) or preliminary general habitat (PGH).
<u>Endangered or Threatened Species - Aquatic</u> Specialist: Lindsay Davies, Title
Signature and Date: <i>Lindsay Davies</i> 9/15/2015
Rationale: There are no aquatic T&E species or critical habitats within this watershed.
<u>Endangered or Threatened Species - Flora</u> Specialist: Caryn Burri, NRS, Botany
Signature and Date: <i>Caryn Burri</i> 9/14/15
Rationale: There is no documented Federal T&E or BLM special status plant species, nor designated critical habitat, within the proposed easement acquisition area.
2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
Specialist: Holly Orr, District Planning and Environmental Coordinator
Signature and Date: <i>Holly Orr</i> 10/1/15
Rationale: No known laws or requirements for protection of the environment would be violated. The Mill Creek Road is an existing road which is over 20 years old; road access and road maintenance have occurred in the past and will continue in the future; there is no new road or disturbance proposed.
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
Specialist: Holly Orr, District Planning and Environmental Coordinator
Signature and Date: <i>Holly Orr</i> 10/1/15
Rationale: Implementation of the proposal would not result in a disproportionately adverse effect on minority or economically disadvantaged populations as such populations do not occur in or near the project area.
2.11 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).
Specialist: Scott Thomas, District Archaeologist
Signature and Date: <i>Scott Thomas</i> 9-14-15
Rationale: Access to or integrity of Indian sacred sites would not be negatively affected by the proposed project because no sacred sites are known to occur in the project vicinity.

<p>2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative 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>Specialist: Lesley Richman, District Weed Coordinator</p>
<p>Signature and Date: <u>Lesley Richman</u> <u>9/24/2015</u></p>
<p>Rationale: Noxious weeds are known to be present in close proximity to this area. Treatments are on-going. The weeds are not present in sufficient quantity to be considered a significant impact at this time.</p>

D. Signatures

Additional review (As determined by the Authorized Officer):

Specialist: Stacy Fenton, Geographic Information Specialist

Signature: Stacy Fenton Date: 10/26/15

RMP conformance and CX review confirmation:

Specialist: Holly Orr, Planning and Environmental Coordinator

Signature: Holly Orr Date: 10/1/15

Management Determination:

Based upon review of this proposal, I have determined the proposed action is in conformance with the LUP, qualifies as a categorical exclusion and does not require further NEPA analysis.

Authorized Officer: Richard Roy, Three Rivers Resource Area Field Manager

Signature: Richard Roy Date: 10/26/15

E. Contact Person

For additional information concerning this CX review, contact the Planning and Environmental Coordinator, BLM, Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738, (541) 541-4400.

Decision:

It is my decision to implement the proposed action with PDEs (if applicable) as described above.

Appeal Procedure:

You have the right to appeal to the Interior Board of Land Appeals (IBLA), Office of the Secretary, within 30 days of receipt of this decision in accordance with regulations at 43 CFR 4.4. An appeal should be in writing and specify the reasons, clearly and concisely, why you think the decision is in error. A notice of appeal and/or request for stay electronically transmitted (e.g., email, facsimile, or social media) will not be accepted. A notice of appeal and/or request for stay must be on paper. If an appeal is taken, your notice of appeal must be filed with Richard Roy, Field Manager, Three Rivers Resource Area, Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738. The appelliant has the burden of showing that the decision is in error.

A copy of the appeal, statement of reasons, and all other supporting documents should also be sent to the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, Oregon 97205. If the notice of appeal did

not include a statement of reasons for the appeal, it must be sent to the IBLA, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. It is suggested appeals be sent certified mail, return receipt requested.

The appellant may wish to file a petition for a stay (suspension) of this decision during the time that the appeal is being reviewed by the IBLA; pursuant to 43 CFR 4.21(b) 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 be submitted to each party named in this decision and to IBLA and to the appropriate Office of the Solicitor (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.

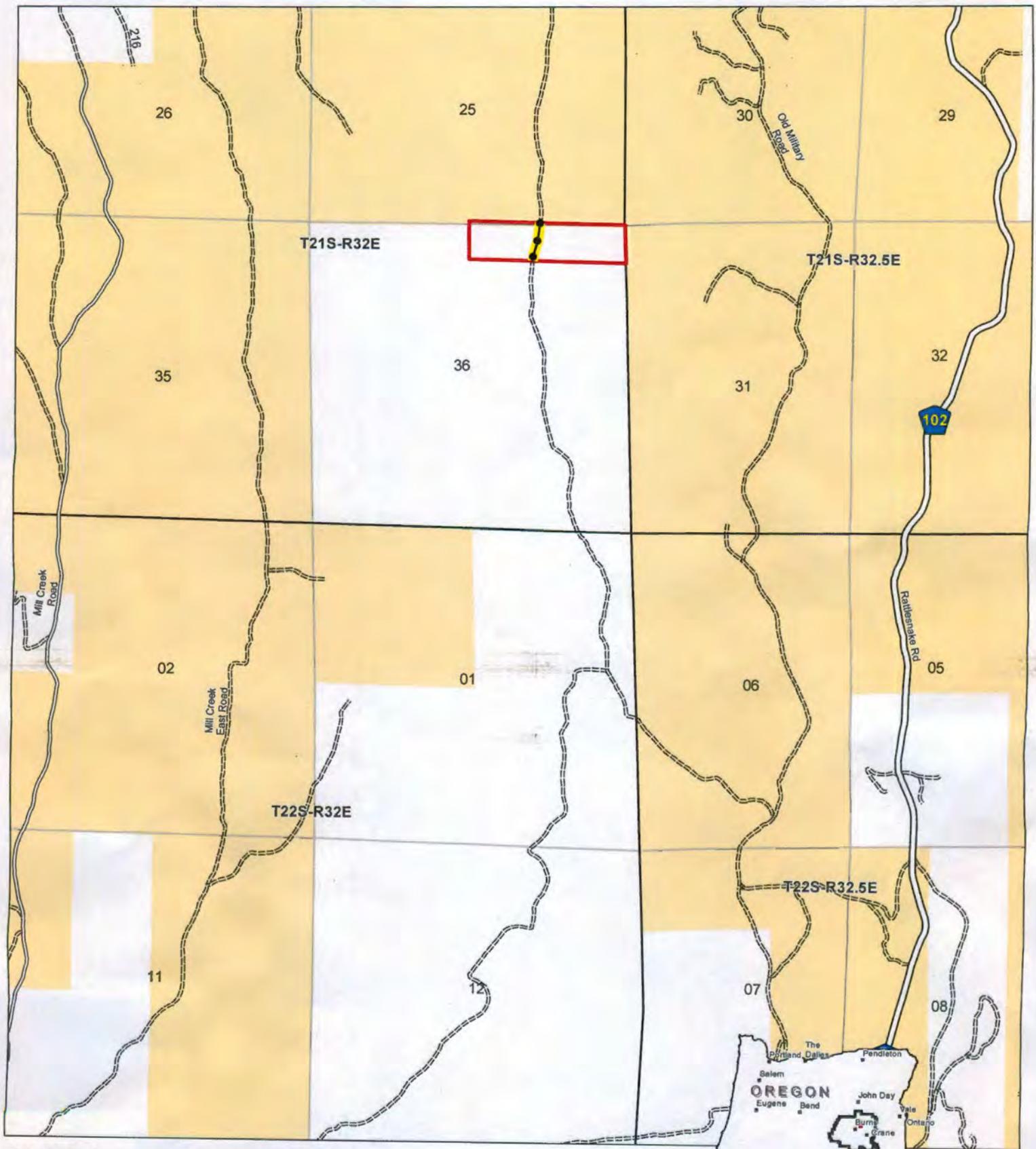
Standards for obtaining a stay—except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards (43 CFR 4.21(b)):

- (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.

As noted above, the petition for stay must be filed in the office of the authorized officer. It must be printed or typed on paper and must be served in person or by certified mail.

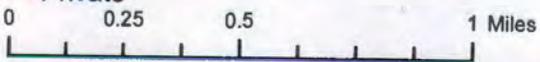
Authorized Officer: Richard Roy, Three Rivers Resource Area Field Manager

Signature: Richard Roy Date: 10/26/15



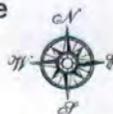
**OR-67902 Proposed Easement Acquisition
Exhibit A**

- OR-67902 Proposed Easement
- Rattlesnake Creek Land and Cattle, LLC
- BLM
- Private
- Paved Road
- Non-Paved Improved Road
- Primitive/Unknown Surface



US DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Burns District, Oregon

Note: No warranty is made by the Bureau of Land Management as to the accuracy, reliability or completeness of these data for individual or aggregate use with other data. Original data was compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.
workspace\mclein\OR-67902.mxd, 06/23/2015



Ownership Boundaries are accurate within plus or minus 200 feet