

RECORD OF PLAN CONFORMANCE AND CATEGORICAL EXCLUSION (CX) DETERMINATION

CX Log #: OR-014-CX-04-02

Lease or Serial #: _____

Project Name: Spencer Watershed Riparian Fence Reconstruction

Location: Township 38S, Range 6E; Sections 26, 35; Township 39S, Range 6E; Sections 11, 2;
Township 39S, Range 7E; Sections 19, 20, 29

County: Klamath

BLM Office: Lakeview District, Klamath Falls Resource Area

Phone #: 541-883-6916

Applicant: U. S. Timberlands **Address:** _____

Description of the Proposed Action:

The BLM is providing funding to US Timberlands, LLC through Assistance Agreement # HAA042001 to reconstruct five livestock exclusion fences in the Spencer Creek watershed for the purpose of riparian area protection. BLM and US Timberland lands are intermingled in the watershed. The fences would be re-built to improve their effectiveness in protecting riparian areas, reduce vandalism, and reduce maintenance demands on permittees who graze their livestock on BLM and US Timberland property. Protecting the riparian areas from overgrazing and off-highway vehicle (OHV) use is expected to improve habitat conditions for sensitive redband trout which use Spencer Creek for spawning rearing and migration. Approximately seven (7) miles of fence would be rebuilt, including new braces, wires, and gates, and old fences removed. The riparian area protected would be approximately 150 acres.

All fences will be designed to provide access for wildlife. Improvements in foot traffic access would be built into the design depending on the needs of each site. Fence design will vary at each location depending on factors such as snow load, tree-fall potential, visual resource needs, vandalism history, and fish & wildlife concerns. New designs would include the use of high tensile let-down fence (New Zealand style) in areas of heavy snow load or tree fall.

Bald eagle seasonal restrictions will apply. Management activities will be restricted from January 1 through August 31 within ¼ mile, or ½ mile line-of-sight, from active Bald eagle nests.

PLAN CONFORMANCE

The above project has been reviewed and found to be in conformance with the following BLM plans (reference appropriate section/pages of the plan):

A. Klamath Falls Resource Area Record of Decision and Resource Management Plan and Rangeland Program Summary, June 1995 (KFRA ROD/RMP/RPS), approved June 1995.

B. Spencer Creek Pilot Watershed Analysis, USDI Bureau of Land Management, USDA Forest Service, August 1995.

C. Spencer Creek Coordinated Resource Management Plan (June 1994).

Authority:

Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106-393. Section 124 of Omnibus Consolidated Appropriations Act of 1997, PL 104-208 (Attachment 1) provides a framework by which the Bureau of Land Management (BLM) may enter into Watershed Restoration and

Enhancement Agreements which would permit funding work on private land that has direct benefit to biotic resources on public land.

Assistance Agreement # HAA042001 between the Bureau of Land Management and US Timberlands, December, 2003.

IDENTIFICATION OF EXCLUSION CATEGORY

The proposed action has been identified as a categorical exclusion under **Department Level Categorical Exclusions (516 DM 2, Appendix 1) #1.7 “Routine Maintenance”, and Bureau of Land Management Categorical Exclusions (516 DM 6, Appendix 5) #H(9) “Construction of protective exclosures”**.

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

The proposed action is categorically excluded from further analysis or documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM2, Appendix 1, 1.1212 if it does not meet any of the following Exceptions (listed in 516 DM 2, Appendix 2; IM No. OR-2002-130).

Will the proposed action meet the following Exceptions?

| <u>Exception</u> | <u>Yes</u> <u>No</u> |
|--|----------------------|
| | |
| 1. Have significant adverse effects on public health or safety? | () (X) |
| 2. Have significant, adverse effects on unique geographic characteristics or features, or on special designation areas such as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; sole or principal drinking water aquifers; or prime farmlands? This also includes ecologically significant or critical areas, such as significant caves, ACECs, National Monuments, WSAs, RNAs, and those listed on the National Register of Natural Landmarks. | () (X) |
| 3. Have highly controversial environmental effects (40 CFR 1508.14)? | () (X) |
| 4. Have highly uncertain and potentially significant environmental effects or 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. Be directly related to other actions with individually insignificant, but significant cumulative environmental effects? This includes connected actions on private lands (40 CFR 1508.7 and 1508.25(a)). | () (X) |
| 7. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places? This includes Native American religious or cultural sites, archaeological sites, or historic properties. | () (X) |
| 8. Have adverse effects on species listed or proposed to be listed as Federally Endangered or Threatened Species, or have adverse effects on designated critical habitat for these species? This includes impacts on BLM-designated sensitive species or their habitat. When a Federally listed species or its habitat is encountered, a Biological Evaluation (BE) shall document the effect on the species. The responsible official may proceed with the proposed action without preparing a NEPA document when the BE demonstrates either 1) a “no effect” determination or 2) a “may effect, not likely to adversely effect” determination. | () (X) |

| | |
|--|-----------|
| 9. Fail to comply with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act (water resource development projects only)? | () (X) |
| 10. Violate a Federal, State, Local, or Tribal law, regulation or policy imposed for the protection of the environment, where non-Federal requirements are consistent with Federal requirements? | () (X) |
| 11. Involve unresolved conflicts concerning alternative uses of available resources (NEPA section 102(2)(E)) not already decided in an approved land use plan? | () (X) |
| 12. Have a disproportionate significant adverse impacts on low income or minority populations; Executive Order 12898 (Environmental Justice)? | () (X) |
| 13. Restrict access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites; Executive Order 13007 (Indian Sacred Sites)? | () (X) |
| 14. Have significant adverse effect on Indian Trust Resources? | () (X) |
| 15. Contribute to the introduction, existence, or spread of: Federally listed noxious weeds (Federal Noxious Weed Control Act); or invasive non-native species; Executive Order 13112 (Invasive Species)? | () (X) |
| 16. Have a direct or indirect adverse impact on energy development, production, supply, and/or distribution; Executive Order 13212 (Actions to Expedite Energy-Related Projects)? | () (X) |

The proposed action would not create adverse environmental effects or meet any of the above exceptions.

DOCUMENTATION OF RECOMMENDED MITIGATION

For any item checked "Yes" identify the mitigating measures proposed. If no mitigating measures are identified that can prevent the potential adverse impacts, the conditions for a categorical exclusion cannot be met.

| Item No. | Can Be Mitigated | Cannot Be Mitigated | Mitigation Measures |
|----------|------------------|---------------------|---------------------|
|----------|------------------|---------------------|---------------------|

SURVEYS AND CONSULTATION

Surveys and/or consultation may be needed for special status plants and animals, for cultural resources, and other resources as necessary: (Initial and Date appropriate fields)

| | 1) are completed | 2) will be completed | 3) are not needed |
|-------------------------|----------------------|----------------------|----------------------|
| SSS Animal Surveys | | | X <u>SA 12/23/03</u> |
| Cultural Surveys | X <u>TC 12/10/03</u> | | |
| Botanical Surveys | DKH | | X <u>JW 12/16/03</u> |
| Other Surveys | | | X |
| SSS Animal Consultation | | | X <u>SA 12/23/03</u> |
| Botanical Consultation | | | X <u>JW 12/16/03</u> |
| Cultural Consultation | X <u>TC 12/10/03</u> | | |

Remarks:

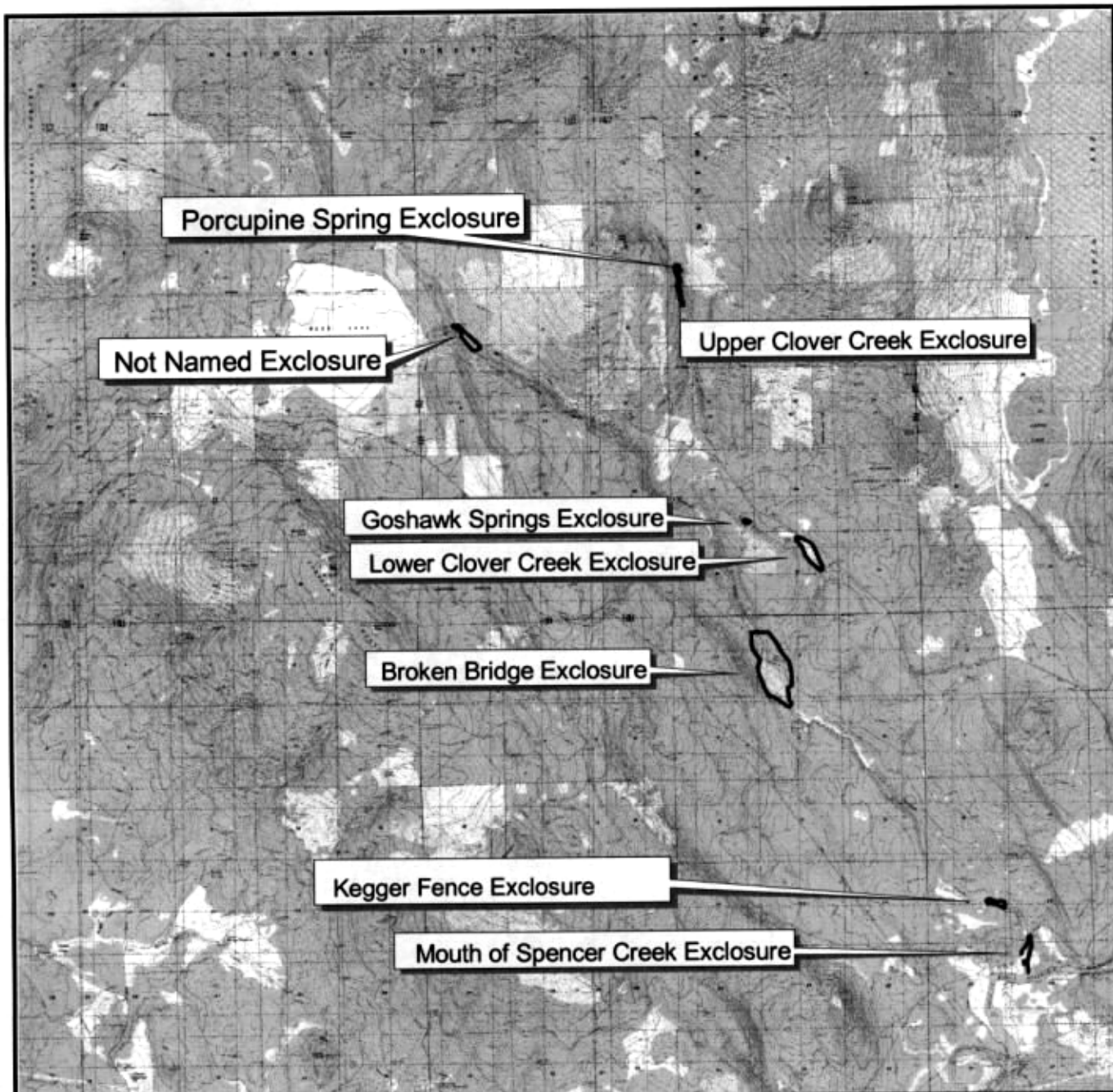
SUMMARY OF FINDINGS and CX DETERMINATION

Based on the available information and a review by the interdisciplinary team, it is my determination that the proposed action does not constitute a significant impact affecting the quality of the human environment greater than those addressed in the:

- Final Klamath Falls Resource Area Management Plan and EIS.

The proposed action would not create adverse environmental impacts or require the preparation of an environmental assessment (EA) or environmental impact statement (EIS). The proposed action has been reviewed against the criteria for an Exception to a categorical exclusion (listed above) as identified in 516 DM 2, Appendix 2, and does not meet any Exception. The application of this categorical exclusion is appropriate, as there are no extra ordinary circumstances potentially having effects that may significantly affect the environment. The proposed action is, therefore, categorically excluded from additional NEPA documentation.

| | | | |
|--------------------------------|---|---|-------------------------|
| Prepared By: (Signature) | Name: <u>And. Hunter</u> | Title: <u>Nat. Res. Spec.</u> | Date: <u>1/28/04</u> |
| Reviewed By: (Signature) | Name: Don Hoffheins <u>DK Hoffheins</u> | Title: Planner/Environmental Coordinator | Date: <u>1/28/04</u> |
| Approved By: (Signature) | Name: Jon Raby <u>Larry Frazier (acting)</u> | Title: Resource Area Manager | Date: <u>1/28/04</u> |



U.S. Timber Riparian Exclosure Locations

Township 39S, Range 07E
 Sections 19, 20, 29
 Township 39S, Range 06E
 Sections 02, 11
 Township 38S, Range 06E
 Sections 10, 15, 18, 19, 27, 35

7.5' USGS Quadrangles:
 Spencer Creek, Oregon (1998)
 Aspen Lake, Oregon (1998)
 Lake of the Woods, South, Oregon (1998)

Michelle Durant
 November 24, 2003 Bureau of Land Management - Klamath Falls Resource Area

1 0 1 2 Miles



Figure 1. Project Area.

Klamath Falls Resource Area NEPA Document Routing Slip for Internal Review

Project Name: CX04-02 Spencer Watershed Riparian Fence Reconstruction
Date Initiated: 11/24/03

| Resource or Staff Responsible | Review Priority | Preliminary Review Date/Initials | Comments Attached/Incorporated | Final Review Date/Initials |
|---|-----------------|----------------------------------|--|-------------------------------|
| Manager: Jon Raby | Last | | | 1/28/04 CF (acting) |
| Branch Chief: Barbara Ditman | Second to Last | | | |
| Branch Chief: Larry Frazier | Second to Last | | | 1/28/04 LF |
| Branch Chief: Rod Johnson | Second to Last | | | |
| Planner/EC: Don Hoffheins, Kathy Lindsey | Third from Last | 12/10/03 DKH | | DKH 1/27/04 1/27/04 DZE |
| Range: Bill Lindsey, Dana Eckard | | | | |
| Wild Horses: Tonya Pinckney | | | | |
| Fire/Air Quality: Joe Foran | | | | |
| Silviculture: Bill Johnson, Gabi Sommerauer | | | | |
| Timber: Mike Bechdolt | | | | |
| Botany/ACEC/Noxious Weeds: Lou Whiteaker | (5) | 12/16/03 JW | | 12/16/03 JW |
| Soils: | | | | |
| Cultural: Tim Canaday | (4) | TC 12/10/03 | surveys complete report in progress | TC 12/10/03 |
| Minerals/HazMat: Tom Cottingham | | | | |
| Lands/Realty: Linda Younger | | | | |
| Recreation/Visual/Wilderness: Scott Senter | (3) | 12/11/03 VSS | | 12/14/03 VSS |
| Hydrology/Riparian: Mike Turaski, Andy Hamilton | (2) | 12/10/03 MRT | | MRT 1/7/2003 |
| Wildlife/T&E: Steve Hayner | (6) | 12/25/03 SWH | Incorporated | SWH 12/25/03 |
| Fisheries/T&E: Scott Snedaker | | | | |
| W/S Rivers: Grant Weidenbach | | | | |
| Engineering: Brian McCarty | | | | |
| Survey/Manage: Molly Juillerat | (1) | 12/10/03 MJS | | |
| Clearances/Surveys | Needed | Done/Attached | <p>*This document will not sit on your desk for more than 8 hours. Please check on calendar to make sure that the next person will be available to review the document.</p> <p>**Some resource areas may not apply for all projects. If so, just mark "N/A" in "Review Priority" column.</p> | |
| Cultural | | | | |
| Botanical | No JW 12/14/03 | | | |
| T&E, BA & or Consultation | No SWH 12/1/03 | | | |
| R-O-W Permits | | | | |