

CATEGORICAL EXCLUSION DOCUMENTATION FOR DNRC FOREST MANAGEMENT ACTIVITY

Project Name: Bear Gulch Easement Grant/Road User's Association

Proposed Implementation Date: December 2018

Proponent: DNRC and private landowners

Type and Purpose of Action: Grant of Easement to a Road User's Association or individual parties in the SW1/4, Section 34, T14N, R9W across school trust land on existing, Bear Gulch Road.

Location: SW1/4, Section 34, T14N, R9W. A map of the road easement involved is attached.

County: Lewis and Clark

Category (refer to ARM 36.11.447 (3)(a) through (w) for additional detail):

- a) Temporary Uses of Land with Negligible Effects
- b) Plans and Policies
- c) Leases and Licenses
- d) Acquisition of Land or Interest in Land
- e) Road Maintenance and Repair
- f) Bridges and Culverts
- g) Crossing Class 3 Streams
- h) Temporary Road Use Permits
- i) Road Closure
- j) Material Stockpiles
- k) Backfilling
- l) Gathering Forest Products for Personal Use
- m) Regeneration
- n) Nursery Operations
- o) Water Wells
- p) Herbicides and Pesticides
- q) Other Hazardous Materials
- r) Fences
- s) Waterlines
- t) Removal of Small Trees
- u) Removal of Hazardous Trees
- v) Cone Collection
- w) Timber Harvest (<100 MBF green or 500 MBF salvage)

By process of the adoption of the Forest Management Rules on February 27, 2003, pursuant to ARM 36.2.523(5)(a), the Department of Natural Resources and Conservation, Trust Land

Management Division, has adopted the above categorical exclusions for activities conducted on state forested trust lands. "Categorical Exclusion" refers to a type of action that does not individually, collectively, or cumulatively require an EA or EIS unless extraordinary circumstances occur (ARM 36.2.522(5)).

Extraordinary Circumstances:

Will the proposed action affect one or more of the following resources, species or situations in the project area? If the resource, species, or situation is present, but project design avoids potential adverse effects on the resource, the answer is "No". One "Yes" answer indicates that Categorical Exclusion is not appropriate for the project, and an EA or EIS must be conducted.

YES NO

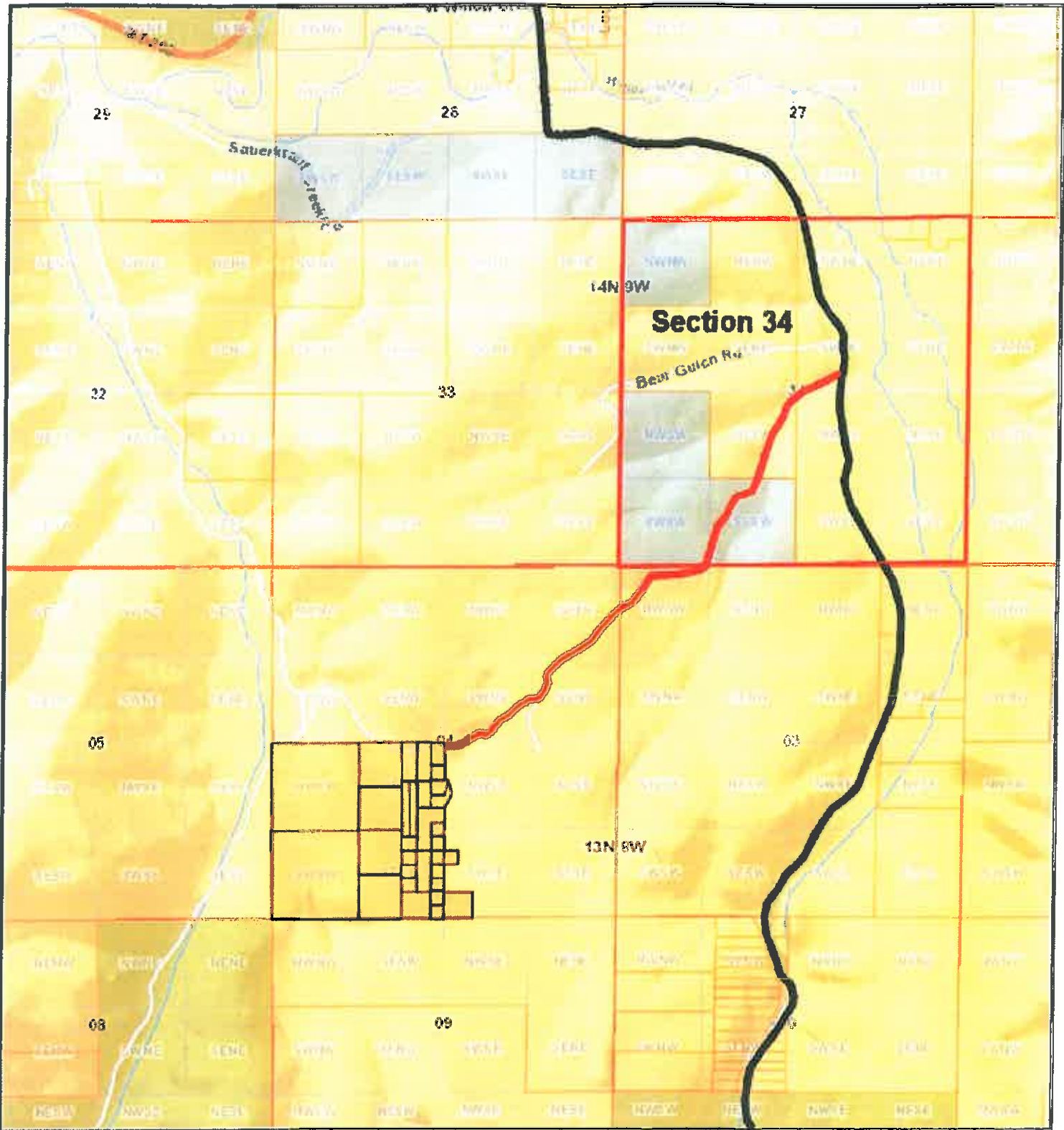
- a) Sites with high erosion risk.
- b) Federally listed threatened and endangered species or critical habitat for threatened and endangered species as designated by the USFWS.
- c) Municipal watersheds.
- d) The SMZ of fish bearing streams or lakes, except for modification or replacement of bridges, culverts and other crossing structures.
- e) State natural area.
- f) Native American religious and cultural sites.
- g) Archaeological sites.
- h) Historic properties and areas.
- i) Several related projects that individually may be subject to categorical exclusion but that may occur at the same time or in the same geographic area. Such related actions may be subject to environmental review even if they are not individually subject to review.
- j) Violations of any applicable state or federal laws or regulations.

The project listed above meets the definition of the indicated categorical exclusion, including specified conditions and extraordinary circumstances, as provided in the Forest Management Rules (ARM 36.11.447).

Prepared by: K Baker-Dickinson October 26, 2018
(Name) (Date)

Decision by: Robert H. Storer SWLO Trust Lands Program Mgr.
(Name) (Title)

Robert H. Storer 10/30/2018
(Signature) (Date)



Section 34, T14N R9W

Access across Section 34

Common School Trust

Printed: May 26, 2015



October 26, 2018

Justification for Categorical Exclusion selection for MEPA analysis purposes

As part of the MEPA process to analyze for and disclose effects, a scoping letter was sent August 17, 2018 requesting written comments on the proposed Bear Gulch Road Users Association (RUA) easement.

Additional communication between DNRC and the private landowners during the RUA easement application process included:

- An initial contact letter regarding the need to perfect access sent in May 2015.
- Two DNRC and landowner meetings in July and September 2015.
- A follow up letter in November 2016.
- Numerous phone calls and emails between DNRC personnel, the private landowners, and the private attorney tasked with developing the RUA and easement application.

Upon completion of the 30-day written comment period no written comments were received.

Given the lack of comments, the previous and extensive correspondence associated with the project, and the standard use of a Categorical Exclusion to analyze for the potential effects of an easement grant on an existing road: a Categorical Exclusion was utilized to analyze for the proposed Bear Gulch RUA easement grant.

Attachment A: Decision Rationale

Project: Bear Gulch Easement Grant/ Road User's Association

Date: 10/26/2018

Decision-maker: Robert Storer

Although this particular project does not fit any of the listed activities that qualify as categorical exclusions under ARM 36.11.447 (3)(a-w), it has been determined that it qualifies as a categorical exclusion for the reasons listed below under the *Finding* statements following the listed statute and Administrative Rules.

ARM 36.2.523(5) The agency is not required to prepare an EA or an EIS for the following categories of action:

(a) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review. In the rule or programmatic review, the agency shall identify any extraordinary circumstances in which a normally excluded action requires an EA or EIS;

(b) administrative actions: routine, clerical or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services, and personnel actions;

(c) minor repairs, operations, or maintenance of existing equipment or facilities;

(d) investigation and enforcement: data collection, inspection of facilities or enforcement of environmental standards;

(e) ministerial actions: actions in which the agency exercises no discretion, but rather acts upon a given state of facts in a prescribed manner; and

(f) actions that are primarily social or economic in nature and that do not otherwise affect the human environment.

Finding: This project is considered an administrative action and one that is primarily economic in nature with no affect to the human environment – thereby adhering to cat-ex requirements as outlined in DNRC ARMs for MEPA.

ARM 36.11.447(2) Categorical exclusions shall not apply where extraordinary circumstances may occur. This includes, but is not limited to, activities affecting one or more of the following:

(a) sites with high erosion risk;

(b) federally listed threatened and endangered species or critical habitat for threatened and endangered species as designated by the USFWS;

(c) within municipal watersheds;

(d) the SMZ of fish bearing streams or lakes, except for modification or replacement of bridges, culverts and other crossing structures;

(e) state natural area;

(f) Native American religious and cultural sites;

(g) archaeological sites;

(h) historic properties and areas;

(i) several related projects that individually may be subject to categorical exclusion but that may occur at the same time or in the same geographic area. Such related actions may be subject to environmental review even if they are not individually subject to review; or

(j) violations of any applicable state or federal laws or regulations.

Finding: Even though this activity is not specifically listed as a categorical exclusion in ARM 36.11.447(3) (a-w), this project does not trigger any of the extraordinary circumstances listed above – thereby adhering to cat-ex requirements as outlined in Forest Management ARMs.