

CATEGORICAL EXCLUSION DOCUMENTATION FOR DNRC FOREST MANAGEMENT ACTIVITY

Project Name: East Ashby Reciprocal Access Agreement

Proposed Implementation Date: July 2013

Proponent: East Ashby Road Users Association and DNRC

Type and Purpose of Action: Reciprocal Access Agreement - A trade of all lawful purpose access rights on existing roads crossing lands owned by both parties. Action will provide legal deeds allowing access across each parties land to get to property owned by each party. In addition to all lawful purpose rights, DNRC will acquire a right for motorized access by the public across the private lands in Sec 3, 10 & 11 T12N-R16W.

Location: The area referred to as "East Ashby" is located approximately 22 miles east of Missoula, in the Blackfoot River drainage of west-central Montana. Easements are located in Sections 3, 10, 11, 13,14 Township 12 North - Range 16 West.

County: Missoula

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 | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | a) Sites with high erosion risk. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | b) Federally listed threatened and endangered species or critical habitat for threatened and endangered species as designated by the USFWS. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | c) Municipal watersheds. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | d) The SMZ of fish bearing streams or lakes, except for modification or replacement of bridges, culverts and other crossing structures. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | e) State natural area. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | f) Native American religious and cultural sites. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | g) Archaeological sites. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | h) Historic properties and areas. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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: Robert H. Storer _____ May 6, 2013
(Name) (Date)

Decision by: Anthony L Liane _____ Area Manager, SW Land Office
(Name) (Title)
Anthony L. Liane 5/6/2013
(Signature) (Date)

Attachment A: Decision Rationale

Project: East Ashby Reciprocal Access Agreement (RAA)

Date: May 6, 2013

Decision-maker: Anthony L Liane

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.

MCA 75-1-201 (1)(d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection (1)(b)(iv) [*i.e. environmental review*] if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.

Finding: This project is considered a transfer of ownership interest where no material change in terms or conditions is occurring – thereby adhering to cat-ex requirements as outlined in statute.

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 effect 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.