

**CATEGORICAL EXCLUSION DOCUMENTATION FOR
DNRC REAL ESTATE MANAGEMENT ACTIVITY**

Project Name: Berberet Family Trust Pipeline

Proposed Implementation Date: Immediately

Proponent: Berberet Family Trust

Type and Purpose of Action: Authorize and administer a land use license on an existing water pipeline which originates on state trust lands and ends on private land for stock water.

Location: Township: 5N Range: 3E Section: 16

County: Broadwater

Category (refer to ARM 36.25.918 (1)(a-o) for additional detail):

- a) Lease and License Administration
- b) Review of Lease and License Modification
- c) Boundary Adjustments to Existing Leases
- d) Project Planning and Design
- e) Project Evaluation under **ARM 36.25.906**
- f) Development of a Site Selection Report under **ARM 36.25.907**
- g) Project Selection under **ARM 36.25.908**
- h) Development of the Project Management List under **ARM 36.25.909**
- i) Marketing of State Trust Lands Proposed for lease, license, or easement
- j) Short-term land use licenses, involving no resource extraction or developed uses, and conforming to local permitting and land use regulations
- k) Other RE Management Activities Administered by the Bureau on State Trust Lands that are not in connection to:
 - i. A Department Proposal for a Sale, Exchange, Easement, Placement of Improvement, Lease, License, or Permit; or
 - ii. A Department Review of an Application for Authorization of a Sale, Exchange, Easement, Placement of Improvement, Lease, License, or Permit
- l) Department Request to Amend a Local Growth Policy or Zoning Regulation
- m) Department Request to Amend or Develop a Neighborhood Plan or Extension of Services Plan
- n) Annexation
- o) Land Acquisition

The Department of Natural Resources and Conservation, Trust Land Management Division, has adopted the above categorical exclusions for real estate activities conducted on state 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)).

- a. **Upon sites with high erosion risk [ARM 36.25.918(2)(a)].**
 - Determine the erosion risk from established soil surveys, existing inventories or site-specific field evaluations. Site factors affecting erosion are soil type, slope, and activity.
 - Consult with Area Hydrologist/Soil Scientist to determine if project is located in a high-risk area.
- b. **where critical habitat for federally listed threatened and endangered species may be affected [ARM 36.25.918(2)(b)].**
 - Determine if federally listed threatened and endangered (T&E) species or critical habitat is present. *Presence of a species or critical habitat does not alone preclude your project from categorical exclusion.* Federally listed T&E species include grizzly bear, Canada lynx, and bull trout. Critical habitat has been designated for Canada lynx and bull trout.
 - Consider local agreements (e.g. Does the project occur on an HCP Parcel?).
 - Determine if your project area contains components important to habitat for listed T&E species (lynx habitat, dens, etc).
 - Consult with Area Wildlife Biologists and/or Fisheries Biologists to determine if your project is likely to have adverse effects to federally listed T&E species and or critical habitat.
- c. **where Native American religious and cultural sites may be affected [ARM 36.25.918(2)(c)],**
- d. **where archaeological sites may be affected [ARM 36.25.918(2)(d)], or**
- e. **where historic properties and areas may be affected [ARM 36.25.918(2)(e)].**
 - Determine if your project occurs in or near one of these areas or sites (ARM 36.25.918 (2)(c-e).
 - Consult DNRC archaeologist with map of the proposed project site to determine if your project is likely to have adverse effects to these sites or areas.
- f. **where several related categorically-excluded individual activities may cumulatively result in significant impacts to the human environment because they will either occur closely in 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 [ARM 36.25.918(2)(f)].**
 - Determine if your project occurs near other related projects.
 - If assessment of cumulative effects raises questions on an otherwise low risk project, do an EA checklist to determine the potential for significant impacts.
- g. **where the activity would result in a violation of any applicable local, state, or federal laws or regulations. [ARM 36.25.918(2)(g)].**
 - Determine if your project violates state or federal laws (i.e. local zoning regulations, DEQ regulations, Clean Air Act, etc.).

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) upon sites with high erosion risk.
- b) where critical habitat for federally listed threatened and endangered species may be affected
- c) where Native American religious and cultural sites may be affected
- d) where archaeological sites may be affected
- e) where historic properties and areas may be affected
- f) where several related categorically-excluded individual activities may cumulatively result in significant impacts to the human environment because they will either occur closely in 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
- g) where the activity would result in a violation of any applicable local, 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 Real Estate Management Project Rules (ARM 36.25.918).

According to 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;


This Land Use License would authorize the use of an existing pipeline with an active license to a different party.

Prepared by: Dylan Craft
(Name)

12/6/2022
(Date)

Decision by: Heidi Crum
(Name)

Helena Unit Manager
(Title)


(Signature)

12/6/22
(Date)

