

DECISION MEMO

DAVENPORT ENERGY, LLC GEOPHYSICAL EXPLORATION PROJECT

USDA Forest Service
Bend/Fort Rock Ranger District, Deschutes National Forest
Deschutes County, Oregon
Townships 20, 21 and 22 South, Ranges 11, 12 and 13 East (Willamette Meridian)

I. DECISION TO BE MADE

A. Decision

I have decided to issue a special use permit to allow Davenport Energy, LLC to conduct geophysical exploration activities on lands within the Bend/Fort Rock Ranger District and Newberry National Volcanic Monument (NNVM).

B. Location of the Project

The project area is located approximately 20 miles south of Bend generally east of Highway 97, west of Newberry Crater, north of Forest Road 22 and south of Forest Road 9725. The legal description is Township 20 South, Range 12 East, Sections 25, 26, 32 and 36; Range 13 East, Section 31; Township 21 South, Range 11 East Sections 12, 13, 23-26, and 36; Range 12 East, Sections 3, 4, 6, 8, 9, 11, 12, 14-23, 25, 28-30, 32 and 34; Range 13 East, Sections 6, and 18; Township 22 South, Range 11 East, Sections 1, 2, 12-14, and 24; Range 12 East, Sections 2, 4-9, 11, 12, 14-23, 25, 28 and 29; and Range 13 East, Section 6, Willamette Meridian. Approximately 10 sites where data will be collected are within the boundaries of the NNVM.

II. PURPOSE AND NEED FOR ACTIVITIES

A. Purpose and Need

Davenport Energy, LLC is interested in gathering geophysical data that could be used to help determine the potential for economically developing geothermal energy as a commercial source. Developing new energy sources is supported by the 2001 Presidential National Energy Policy.

B. Description of Project Activities

A magneto-telluric (MT) survey will be conducted to gather information on both the electric and magnetic currents of the earth. Readings will be taken using magnetic

sensors that are approximately four feet long and will be buried at each site. Two of the sensors will be buried horizontally in trenches four feet long and approximately six inches deep. The remaining sensor will be buried vertically up to four feet in depth using a post hole digger. Four to five electric field sensors about the size of a volley ball will be buried approximately eight inches deep. These sensors are all connected to a data logger by fifty foot long cables and are spread out in an “X” shaped pattern. The data logger is run by battery. All the equipment described is left in the field for up to 12 hours at each site to record data and is then removed and installed at the next site. The equipment is portable and can be carried in a backpack. All digging will be done by hand. No digging will be allowed in the NNVM. Instead, the equipment will be placed on top of the ground and covered by sand bags.

C. Measures to Reduce or Eliminate Unwanted Impacts Include, But Are Not Limited To:

- Measures to reduce the risk of noxious weed introduction and spread.
- Protection or avoidance of cultural sites

Botany

1. Davenport Energy, LLC will be required to clean all equipment before entering National Forest System lands. All mud, dirt, and plant parts will be removed from equipment before it is moved onto the project area.

Archaeology

1. Davenport Energy, LLC will be required to have an archaeologist at locations determined by the Forest Service before any activities begin. The archaeologist will monitor all ground disturbing activities in these select areas.
2. Davenport Energy, LLC will be required to cease operating immediately if any archaeological resources are discovered. The exploration activities will then move to a new location within a reasonable distance of the original location at the discretion of the archaeologist on site.

III. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are within one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 section 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

This project may be categorically excluded from documentation in an environmental impact statement or environmental assessment as it is a routine activity within a category of exclusion and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

A. Category Of Exclusion

The appropriate category of exclusion is found in the Forest Service Handbook 1909.15 Section 31.2 Category 8: 'short-term (one year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross- country travel by vehicles and equipment, construction of less than one mile of low stand road or use and minor repair of existing roads.'

B. Relationship To Extraordinary Circumstances

In determining the appropriateness of using the categorical exclusion, a determination of the potential impact to the resource conditions identified in FSH 1909.15 Section 30.3(2) must be made. The following is the list of the potential effects to the resource conditions from the project activities.

1. Federally listed Threatened or Endangered Species or designated habitat or species proposed for Federal listing or proposed critical habitat

No federally listed threatened or endangered plant, wildlife or aquatic species or their habitat occurs within the specific data collection sites.

2. Forest Service Sensitive Species

Plant species: There are no known sensitive plant species or habitat within the specific data collection sites.

Aquatic Species: There are no sensitive aquatic species or habitat within the specific data collection sites. There are no wetlands, streams or lakes within the specific data collection sites. No activities will take place adjacent to or within wetlands, streams or lakes.

Wildlife Species: There are no suspected sensitive wildlife species or habitat within the specific data collection sites.

3. Flood plains, wetlands, or municipal watersheds

Floodplains: Executive Order 11988 is to avoid adverse impacts associated with destruction or modification of floodplains. Floodplains are defined by this order as, "...the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including, at a minimum, that area subject to a one

percent (100-year recurrence) or greater chance of flooding in any one year.” No activities will take place adjacent to or within a floodplain..

Wetlands: Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, “...areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats and natural ponds.” No activities will take place adjacent to or within a wetland.

Municipal Watersheds: There are no municipal watersheds within the project area.

4. Congressionally designated areas such as wilderness, wild and scenic rivers, and national recreation areas

Newberry National Volcanic Monument was established in November of 1990 “...as a component of the National Forest System to preserve and protect for present and future generations Newberry’s remarkable geologic landforms – and to provide for the conservation, protection, interpretation and enhancement of its ecological, botanical, scientific, scenic, recreational, cultural, and fish and wildlife resources.” This proposal is consistent with the 14 science and research mitigation measures stated in the Final Environmental Impact Statement of the Newberry National Volcanic Monument Comprehensive Management Plan, August 1994.

Ten data collection sites are located within the boundaries of the Newberry National Volcanic Monument. No ground disturbing activities will be allowed within the Monument.

5. Northwest Forest Plan

The planning area is located outside of and to the east of the Northwest Forest Plan boundaries.

6. Inventoried Roadless Areas

There are no inventoried roadless areas in the planning area. The project would not construct any permanent or temporary roads.

7. Research Natural Areas

There are no existing or proposed Research Natural Areas in the planning area.

8. American Indian and Alaska Native religious or cultural sites, archaeological sites or historic properties of areas

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered in federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through “in situ” preservation, but may encompass other actions to preserve these remains and items.

This decision complies with the cited Acts. An archaeologist will monitor activities at locations determined by the Forest Service to monitor all ground disturbing activities in these select areas. If any archaeological resources are discovered, operations will cease immediately. The exploration activities will then move to a new location within a reasonable distance of the original location at the discretion of the archaeologist on site. Consultation will occur under the Programmatic Agreement with the State Historic Preservation Office.

Conclusion

Based on the conclusions regarding the effect to the resource conditions listed above, no extraordinary circumstances exist with the proposed project activities that may result in a significant direct, indirect, or cumulative effect on the quality of the human environment.

IV. PUBLIC INVOLVEMENT

A scoping letter was mailed to 39 individuals, organizations, and agencies on September 1, 2006. Also, a legal notice was published in The Bulletin on September 8 and 9, 2006. The following tribal governments were contacted with letters: Confederated Tribes of the Warm Springs Reservation, Burns Paiute Tribe, and the Klamath Tribes.

A telephone call was received from Mr. Stu Garrett on September 5, 2006. He expressed no specific comments for or against the project. He did comment that he did not believe that Davenport Energy, LLC should be allowed to conduct data collection activities within the boundaries of the Newberry National Volcanic Monument.

V. FINDINGS REQUIRED BY OTHER LAWS

This project is consistent with the Deschutes National Forest Land and Resource Management Plan (Forest Plan) as required by the National Forest Management Act. The Plan is amended by Inland Native Fish Strategy, which provides standards and guidelines for protection of watersheds and riparian habitat conservation areas. There are no

riparian habitat conservation areas within specific data collection sites. The project is designed in conformance with Forest Plan standards and guidelines.

VI. APPEAL RIGHTS

This decision is not subject to appeal pursuant to 36 CFR 215.8(a) (4).

/s/ Robin Vora for _____
PHIL CRUZ
District Ranger

9/18/2006
Date