

CATEGORICAL EXCLUSION

Project Name/Applicant: Idaho Department of Lands Road ROW Permit Amendment

Project/Case File Number: ID-34822

Project Lead: Becky Lazdauskas, Realty Specialist

CE Number: ID-310-2009-CE-3705

Date of Preparation: April 20, 2009

PROPOSED ACTION:

On December 15, 2008, Al Ruberry from the State of Idaho Department of Lands, requested an amendment of an existing right-of-way (ROW) permit for their use and maintenance of an existing access road on public land sections 8 and 9, T. 13 N., R. 42 E., B.M., Idaho (Exhibit A). The road ROW permit, BLM serial number IDI-34822, is located in Fremont County and provides access to administer State Lands in sections 1 and 12, T. 13 N., R. 41 E.

The original ROW permit was issued on September 20, 2004 under the authority of the “Cooperative Right-of-Way Agreement – United States of America, Department of Interior, Bureau of Land Management and the State of Idaho State Board of Land Commissioners” (BLM MOU ID-12 dated August 13, 1964). The ROW entails two segments of road both with a ROW width of 50 feet. The first segment or the easternmost road is 2,300 feet in length and the second segment, or western road, is 10,900 feet long. The State has requested to use a different route for western road, stating that they feel there may be wetland issues with the use and maintenance of that route. The new route, approximately 9,400 feet in length, would be to the north along an existing jeep trail amending the legal description as followings:

T. 13 N., R. 42 E., BM, Idaho

sec. 7, Lot 3, NESW, N2SE;

sec. 8, Lots 3, 5, and 6, NESW

See Exhibit A

The eastern route segment would remain the same (Exhibit B). The total length of the amended ROW permit would be 13,200 feet in length, 50 feet wide, encumbering approximately 13.43 acres. The terms and conditions of the original ROW permit would remain in effect. The non-exclusive grant was issued in perpetuity as outlined in the MOU.

CONSULTATION AND COORDINATION:

The proposed project as described in the categorical exclusion was posted in the public room of the Upper Snake Field Office for a period of 30 days.

FINDING AND RECOMMENDATION:

The proposed action is categorically excluded as outlined in 516 DM 6, Appendix 5.4 E

(16) and none of the extraordinary circumstances described in 516 DM 2, Appendix 2 apply. This exclusion states that acquisitions of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes may be excluded from further environmental review.

I recommend that the ROW permit, ID-34822, be amended to include the new route as described above. The amendment would be issued subject to current terms and conditions and the attached stipulations (Exhibit C). The right-of-way permit would be amended under the authority of “Cooperative Right-of-Way Agreement – United States of America, Department of Interior, Bureau of Land Management and the State of Idaho State Board of Land Commissioners” (BLM MOU ID-12 dated August 13, 1964). No fees are collected associated with this ROW permit.

DECISION AND RATIONALE FOR THE DECISION:

It is my decision to amend right-of-way permit IDI-34822, allowing the use and maintenance of access roads on public lands in Fremont County as shown on Exhibits A and B. The amended ROW permit would encumber 13.43 acres, more or less. The ROW permit would continue to be issued in perpetuity, subject to the attached stipulations (Exhibit C).

Issuance of the right-of-way would cause no significant environmental disturbance. The subject action qualifies as a Categorical Exclusion and meets the criteria contained in 516 DM 6, Appendix 5.4 E (16). None of the exceptions found in 516 DM 2, Appendix 2 apply.

LAND USE PLAN CONFORMANCE:

The proposed action is in conformance with the Medicine Lodge Resource Management Plan (1985).

APPEALS INFORMATION:

43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10

/s/ Becky Lazdauskas
Becky Lazdauskas, Realty Specialist

April 20, 2009
Date

/s/ Glen Guenther
Acting Upper Snake Field Manager

April 20, 2009
Date

Extraordinary Circumstances Requiring Preparation of an EA or EIS

(516 DM 2, Appendix 2)

The action described in categorical exclusion **CE# ID-310-2009-CE-3705 (ID-34822)** has been reviewed to determine that none of the extraordinary circumstances listed below pertain to the proposed action.

DM # Extraordinary Circumstance

- 2.1 Have significant impacts on public health or safety
- 2.2 Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
- 2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].
- 2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
- 2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
- 2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
- 2.7 Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.
- 2.8 Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated critical habitat for these species.
- 2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
- 2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
- 2.11 Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
- 2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

EXHIBIT C
STIPULATIONS IDI-34822
STATE BOARD OF LAND COMMISSIONERS

1. The holder shall conduct all activities associated with the use, maintenance and repair of the right-of-way within the authorized limits of the right-of-way.
2. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
3. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods.
4. Holder shall seed all disturbed areas. Seeding shall be done as late in the fall as possible, prior to first snowfall. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the first full growing season.
5. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

6. The maps set forth in Exhibits "A" dated April 14, 2009 and Exhibit "B", dated September 17, 2004, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth in their entirety.