

**CATEGORICAL EXCLUSION DOCUMENTATION**  
**CX No. DOI-BLM-ID-B011-2011-0014-CX**

**A. BACKGROUND**

**BLM Office:** Four Rivers Field Office and Morely Nelson Snake River Birds of Prey/NCA

**Lease/Serial/Case File No.:** IDI-35556

**Proposed Action Title/Type:** Idaho Transportation Department

**Location of Proposed Action:** T. 4 S., R. 1 E., section 14: S2S2S2SW, S2S2S2SWSE  
Section 15: SESESESE  
Owyhee County  
(See attached map Exhibit A, dated July 15, 2011)

**Description of Proposed Action:** The Idaho Transportation Department (ITD) submitted a right-of-way (ROW) application on May 24, 2006, for use of an existing road across the above described public lands. The road has existed and been used for many years by people living and recreating in the area and for the last few years has also been used as an unauthorized short-cut to private residences along the section line. ITD needs this right-of-way for the purpose of hauling aggregate material from their material source to be used in road construction and maintenance projects on State Highway 78.

ITD purchased a parcel of private land in this area to mine gravel materials for use in road construction and maintenance projects on State Highway 78. They purchased the land, but do not have legal access, therefore, ITD has applied for access to their land via an existing road across public land.

ITD will fence the road on the south side to prevent the private land owners from continuing to use the road as entry to their private property and will lay a gravel base on the existing roadbed to allow the road to be used year round. The right-of-way will be 25 feet wide by 3,979 feet long and subject to the terms and conditions of 43 CFR 2800 as well as the stipulations attached as Exhibit B, dated July 15, 2011. This authorization will be issued for a period of 3 years and may be renewed upon request.

This ROW is within the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA).

This right-of-way would be authorized under Title V of the Federal Land Management and Policy Act (October 21, 1976; 43 CFR 2800) which allows BLM to authorize ROW's for this type of land use.

**B. LAND USE PLAN CONFORMANCE**

**Land Use Plan Name:** Snake River Birds of Prey NCA RMP      Dated: September 30, 2008

**The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):** Under "Chapter 2 – Management Objectives and Management Actions 2.11 Lands and Realty, the RMP states "All lands and realty proposals undergo site-specific NEPA analysis, and must be compatible with the purposes for which the NCA was established." There are many uses of this type authorized in the NCA, therefore this ROW is not an incompatible use for the area.

**C: COMPLIANCE WITH NEPA:**

**The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9 E (19).**

**Category Description:** Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sties and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

Departmental List of Extraordinary Circumstances Review: Before any non-Energy Act CX is used, you must conduct sufficient review to determine if any of the following extraordinary circumstances apply (516 DM 2, Appendix 2). If any of the extraordinary circumstances are applicable to the action being considered, either an EA or an EIS must be prepared for the action. Part 516 of the Departmental Manual (516 DM 2, Appendix 2) states that extraordinary circumstances exist for individual actions within CXs which may: (Mark applicable answer for each item. If "yes", prepare an EA/EIS and append this form to it.)

**The following list of Extraordinary Circumstances (516 DM 2, Appendix 2) were considered:**

**1. Have significant impacts on public health or safety.**

NO, does not apply

*Comments/Explanation:* There would be no impacts on public health or safety as the road will be fenced from the private landowner's use and a gravel base will be laid to help prevent powdering out which will also help with dust abatement. The grant will also contain a stipulation for dust abatement.

Specialist Signature/Date: *Kelley Moore 7/15/11*

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**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; or ecologically significant or critical areas, or is not in compliance with the Fish and Wildlife Coordination Act.**

NO, does not apply

*Comments/Explanation:* This is an existing road that is located within the Morely Nelson Snake River Birds of Prey National Conservation Area (NCA) that would cause no significant impacts on the above mentioned resources. This road that has existed for many years and has been historically used by the private landowners adjacent to it. This authorization would contain stipulations governing the use and maintenance of the road and use of the road would be restricted to ITD for their operations only.

Specialist Signature/Date: *Kelley Moore 7/15/11*

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**3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].**

NO, does not apply

*Comments/Explanation:* There is no controversy over the effect of this proposal. The effects of issuing this right-of-way are known and understood and agreed upon in the scientific community. BLM has permitted hundreds of these projects over the past 20 years and understands there are no unresolved impacts from issuing this right-of-way. Although,

issuing the right-of-way could be considered controversial in some instances, the scientific effects are not.

Specialist Signature/Date: *Kelley Moore 7/15/11*

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**4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.**

NO, does not apply

*Comments/Explanation:* The BLM has extensive experience in issuing use authorizations on public lands. The potential impacts associated with the activities themselves are well known and generally negligible.

Specialist Signature/Date: *Kelley Moore 7/15/11*

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**5. Establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.**

NO, does not apply

*Comments/Explanation:* This proposal would not set a precedent or represent a decision in principle about future actions with potentially significant environmental effects. Any future proposal will be analyzed based on its own environmental impacts and according to laws, federal regulations, and BLM policy.

Specialist Signature/Date: *Kelley Moore 7/15/11*

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**6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant environmental effects.**

NO, does not apply

*Comments/Explanation:* The impacts should be negligible or unnoticeable upon issuance of a R/W. They would not add, in any noticeable way, to any impacts from other activities in the area administered by the BLM

Specialist Signature/Date: *Kelley Moore 7/15/11*

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**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.**

NO, does not apply

*Comments/Explanation:* A Class III Cultural Resource Survey was conducted along both sides of the existing road by a BLM Archaeologist. No cultural resources were found during the survey, therefore there will be no significant impacts on listed or eligible properties.

Specialist Signature/Date: *Dean Shaw 2/28/2008*

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**8. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or on designated Critical Habitat for these species.**

NO, does not apply

*Comments/Explanation:* There would be no significant impacts to any special status species. The requested access road is an extension from ITD material source where there is daily ongoing human

activity. The development of an access road would have minimal, if any, effect on special status wildlife species.

Specialist Signature/Date: *Jill Holderman 4/18/2008*

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*Comments/Explanation:* There are no special status plant species in the area – this is a sagebrush steppe community currently occupied by weedy annual species. Upgrading the road would have no impacts on the area.

Specialist Signature/Date: *Amy Stillman 5/21/08*

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**9. Violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.**

NO, does not apply

*Comments/Explanation:* 9. The proposed action would be in compliance with all laws and requirements that pertain to environmental protection in the area.

Specialist Signature/Date: *Kelley Moore 7/15/11*

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**10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).**

NO, does not apply

*Comments/Explanation:* There are no low income or minority populations living in the project area. Low income or minority visitors to the area would not be affected any differently by the proposed activities than any other visitor.

Specialist Signature/Date: *Kelley Moore 7/15/11*

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**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).**

NO, does not apply

*Comments/Explanation:* Access for such use would not be limited.

Specialist Signature/Date: *Dean Shaw 2/28/2008*

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**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).**

NO, does not apply

*Comments/Explanation:* There are currently no known populations of noxious weeds located in the project area. Any noxious weeds encountered during or after project implementation would be treated, monitored, and retreated as necessary, consistent with established BLM procedures, to prevent infestations from establishing and spreading in the project area per the stipulations attached as Exhibit B, dated July 15, 2011.

Specialist Signature/Date: Lonnie Huter 8/3/11

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**D: SIGNATURE**

I certify that none of the Departmental exceptions (Extraordinary Circumstances) listed in the above Part II (516 DM 2, Appendix 2) apply to this action; therefore, this categorical exclusion is appropriate for this situation.

Authorizing Official: Terry A. Humphrey \_\_\_\_\_ Date: \_\_\_\_\_  
8/9/2011 \_\_\_\_\_

(Signature)

Terry A. Humphrey  
Four Rivers Field Manager

**Prepared By/Contact Person:**

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RIGHT-OF-WAY STIPULATIONS

1. The holder will lay a gravel driving surface sufficient to keep the road from “powdering” out as well as to assist with dust abatement.
2. During periods of heavy traffic and dry conditions, the holder will have a water tender on hand to assist with dust abatement on the road.
3. ITD will construct a fence on the southern boundary of the road right-of-way to keep the private residents from using the road and competing with gravel trucks for use of the road.
4. ITD may place a gate at the junction of Wees Road and the access road, however, that gate will not be locked. ITD may place a sign at the gate stating that the road is traveled by large trucks hauling mineral materials to warn the public that they may run into such a vehicle and to use caution.
5. This authorization may be renewed upon expiration. If not renewed, the holder will rehabilitate the road using a seed mixture to be provided by the authorized officer at the time of expiration.
6. This authorization is subject to regulations found at 43 CFR 2800.
7. The holder shall notify the authorized officer of any change of mailing address.
8. The Holder shall file proof of construction within 90 days of completion of construction but no later than one year from the date of the grant, which ever is sooner.
9. The United States retains the right to authorize use of the right-of-way for other compatible uses (including the subsurface and air space).
10. Any cultural and/or paleontological resource (fossil(s) or historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public 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. 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.
11. Use of pesticides, herbicides and rodenticides shall comply with the applicable Federal and State laws, and only in accordance with their registered uses.
12. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant or permit.

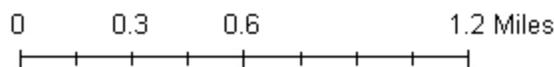
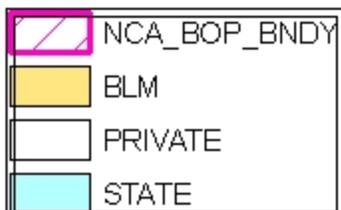
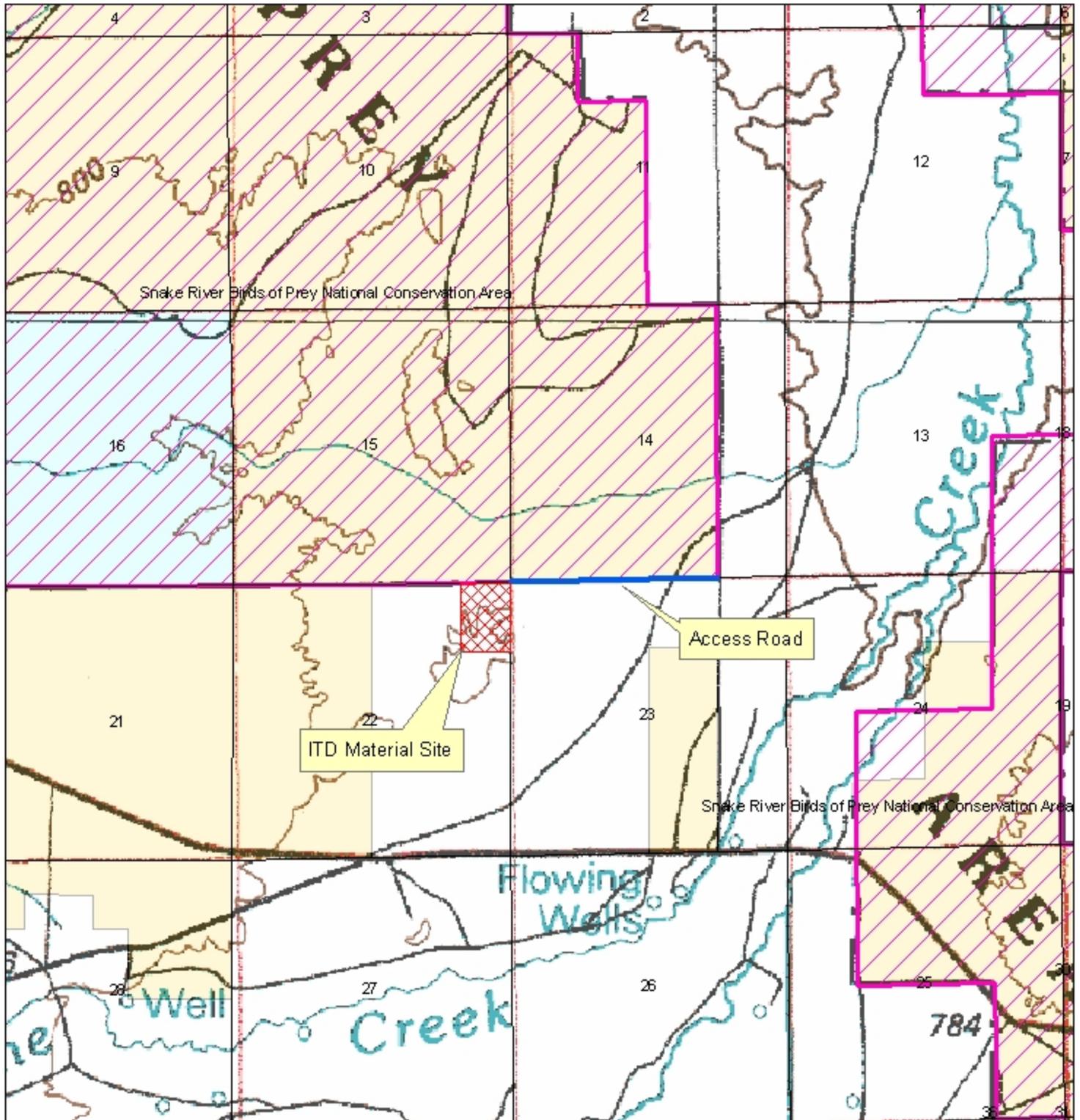
13. The holder(s) shall comply with the Toxic Substances Control Act of 1976 as amended, 15 U.S.C. 2601 et seq. (1982) with regards to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation, and Liability Act, section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
14. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way), or resulting from the activity of the right-of-way holder on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
15. As directed by the Authorized Officer the Holder shall be responsible for control of noxious weed species that result or would result from the construction, use, or maintenance of their grant.

If herbicides are used the Holder shall comply with all applicable Federal and State laws and regulations. Herbicides shall be used only in accordance with their registered uses within the limitations imposed by the Secretary of the Interior. Prior to the use of herbicides, the Holder shall obtain from the authorized officer written approval of a Herbicide Use Proposal Plan showing the type and quantity of herbicide to be used, weed(s) to be controlled, method of application, and any other information deemed necessary by the authorized officer.

Applicator(s) shall hold a current State of Idaho applicator's license or be under the direct supervision of a licensed applicator.

For areas and acres treated the Holder shall submit to the BLM a completed "BLM Pesticide Application Record" form.

Other control methods include but are not limited to annual mowing.



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