

CATEGORICAL EXCLUSION

Project Name/Applicant: Sermon Road & Buried Utilities ROW

Project/Case File Number: IDI-37141

Project Lead/ Preparer: Heather Schlenker, Realty Specialist /BLM Upper Snake Field Office

CE Number: DOI-BLM-ID-I010-2011-0068-CX

Date of Preparation: June 20, 2013

BACK GROUND AND PROPOSED ACTION:

On October 21, 2010, Harold and Susan Sermon were issued a Notice of Trespass for the unauthorized occupancy of public lands. As part of the trespass resolution the Sermons were to obtain a right-of-way for a 100 foot long portion of road, driveway and underground utilities that crossed public lands.

On September 15, 2011, Harold and Susan Sermon, submitted an application (SF-299) requesting a right-of-way (ROW) authorization for an access road and drive way to their private residence, a buried domestic water line and a buried electric distribution line. Year round access and maintenance would be necessary.

The proposed ROW is located in Madison County and is within the Snake River ACEC approximately 0.20 miles Northwest of Heise, Idaho (Exhibit A). The area has been surveyed by BLM and a 100 foot portion of the driveway and road (with utilities underneath) crosses public land. The ROW would be approximately 0.019 miles (100 feet) in length, 25 feet in width, encumbering 0.06 acres of public land. The road has been built and is graveled and the utilities have been placed under the road. The driveway is concrete.

The land is legally described as:

Boise Meridian, Idaho
T. 4 N., R. 40 E.,
sec. 5, lot 5.

The proposed action is to issue a grant of right-of-way to Harold and Susan Sermon for a period of approximately 30 years, expiring on December 31, 2042. The issuance of the rights-of-way would be authorized under Public Law 94-579 (Federal Land Policy and Management Act of October 21, 1976) (90 Stat. 2776; 43 U.S.C. 1761), and the current regulations found at 43 CFR 2800.

CONSULTATION AND COORDINATION:

This project was brought before an Interdisciplinary Team of Bureau of Land Management (BLM) specialists in July of 2013. A description of the proposed action was posted to the online NEPA register. This is available to members of the public through the USFO webpage. No comments were received and no issues/conflicts were identified for this project.

FINDING AND RECOMMENDATION:

The proposed action is categorically excluded as outlined in 516 DM 11.9, E (16) and none of the extraordinary circumstances described in 516 DM 2, Appendix 2 apply. This exclusion states that acquisition 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 purpose may be excluded from further environmental review.

I recommend that the right-of-way authorization, IDI-37141 be granted for approximately 30 years, expiring on December 31, 2042. The grant would allow for year round access and maintenance. The grant would be issued with the right to renew, subject to current terms and conditions and the attached stipulations (Exhibit B). The right-of-way would be granted under the authority of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and current Bureau regulations found at 43 CFR 2800. Rent would be collected as required in 43 CFR 2806.10.

DECISION AND RATIONALE FOR THE DECISION:

It is my decision to issue a right-of-way grant for IDI-37141, allowing the use and maintenance of an existing road, driveway and utilities on public land. The grant would allow for year- round access and maintenance. The right-of-way encumbers approximately 0.06 acres. The grant would be issued for approximately 30 years, expiring on December 31, 2042, with the right to renew, subject to the current terms and conditions found at 43 CFR 2800 and the attached stipulations. Rent would be collected as required in 43 CFR 2806.10.

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 11.9, E (16). None of the exceptions found in 516 DM 2, Appendix 2 apply.

LAND USE PLAN CONFORMANCE:

The Proposed Action is located in Madison County, Idaho, within the boundaries of the Upper Snake Field Office. The BLM's Medicine Lodge Resource Management Plan (BLM 1985) provides general guidelines for the protection and use of resources in this area. The Proposed Action is in conformance with the BLM Upper Snake Field Medicine Lodge Resource Management Plan (RMP) and Record of Decision (ROD) (BLM 1985).

APPEALS INFORMATION:

Right-of-way Decisions become effective upon approval by the authorized officer (43 CFR 2801.10(b)). Appeal procedures may be found at 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10.

/s/Heather Schlenker
Heather Schlenker
Realty Specialist/Preparer

7/26/2013
Date

/s/Marissa Guenther
Marissa Guenther
NEPA Reviewer

7/26/2013
Date

/s/Jeremy Casterson
Jeremy Casterson
Field Manager

7/29/2013
Date

Extraordinary Circumstances Requiring Preparation of an EA or EIS

(516 DM 2, Appendix 2)

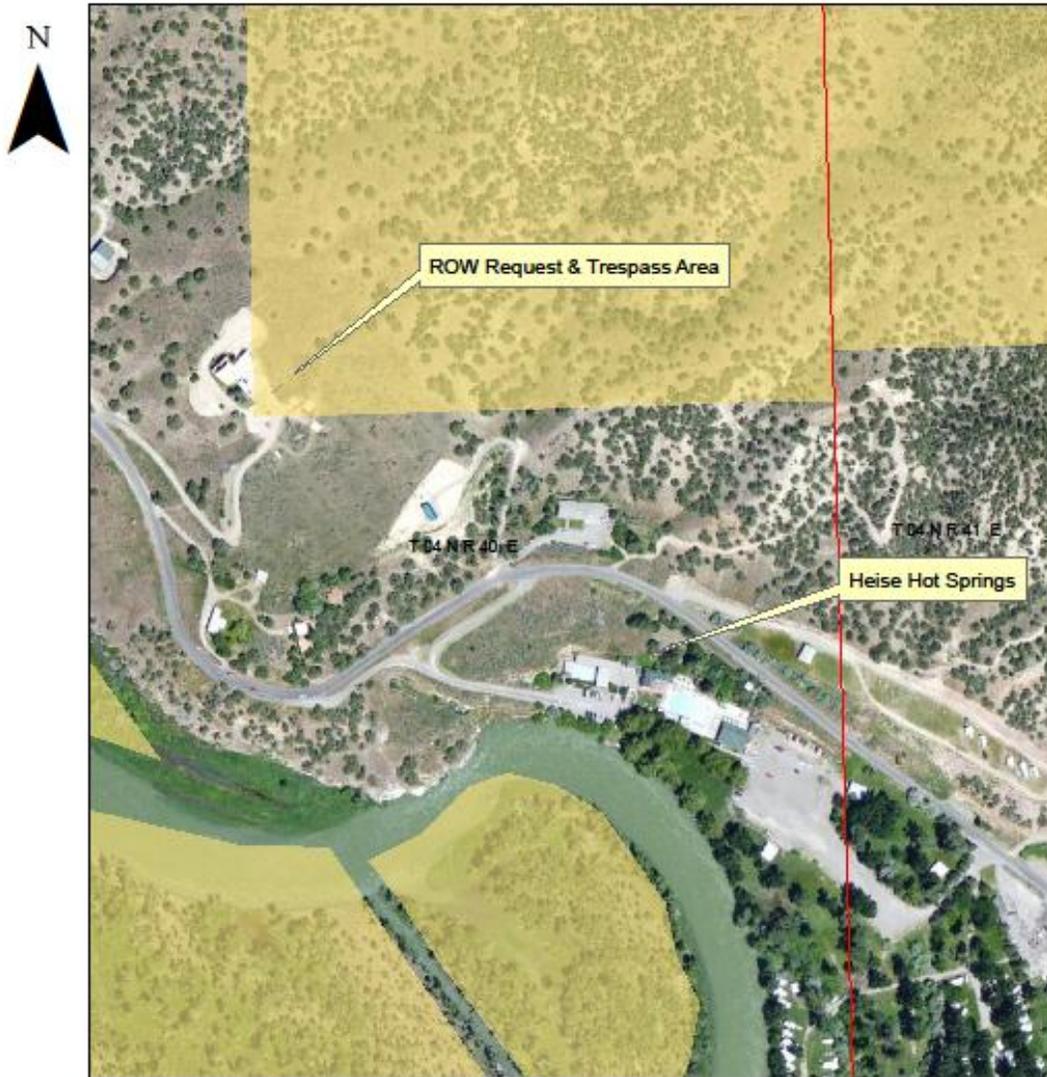
The action described in categorical exclusion # **DOI-BLM-ID-I010-2013-0068-CX (IDI-37141)** has been reviewed to determine that none of the extraordinary circumstances listed below pertain to the proposed action.

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).

IDI-37141/ Sermon Road ROW Request
 T. 4 N, R. 40 E., sec. 25

Exhibit A
 Area Map of ROW request
 7/2/2013 HS



Legend

Surface Management Agency - Idaho

Surface Management

- Bureau of Land Management
- Private
- State of Idaho
- US Forest Service



BLM
 Bureau of Land Management
 U.S. Department of the Interior



Stipulations- Exhibit B

IDI-37141

Operation and Maintenance

1. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
2. No routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3 inches deep, the soil shall be deemed too wet to adequately support construction equipment.
3. Right-of-way shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. 'Waste' means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
4. Holder shall remove only the minimum amount of vegetation necessary for the use and maintenance of the existing road.
5. There is reserved to the Authorized Officer, the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.
6. 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 of 1976, 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.) This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
7. Ninety (90) days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan may include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

Weed Control

8. The holder shall be responsible for weed control 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 (within limits imposed in the grant stipulations).

9. Use of all pesticides (including fungicides, herbicides, insecticides, etc.) shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

Cadastral

10. 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.

Cultural

11. 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.
12. Pursuant to 43 CFR 10.4(g), the holder of this authorization must immediately notify the authorized officer by telephone, with written confirmation, upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further,

pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. The BLM Authorized Officer will determine avoidance, protection or mitigation measures in consultation with the Holder, Idaho SHPO, and affected Tribes. Costs associated with the discovery, evaluation, protection or mitigation of the discovery shall be the responsibility of the holder.