

CATEGORICAL EXCLUSION

Project Name/ Applicant: Bear Mountain LLC Road Right-of-Way

Project/Case File Number: IDI-36241

Project Lead: Becky Lazdauskas, Realty Specialist

CE Number: DOI-BLM- ID-I010-2013-0027-CX

Date of Preparation: March 27, 2013

PROPOSED ACTION:

On July 15, 2008, Carl Palmer of Bear Mountain LLC submitted an application (SF-299) requesting a right-of-way (ROW) for legal access across several existing two-track roads on public land in Custer County. Mr. Palmer has requested the ROW to allow several different access locations and facilitate ranching operations on private lands owned by Bear Mountain LLC. Mr. Palmer would also like permission to maintain the segments of road. The maintenance would include periodic grading and gravelling of the existing road. Native material fill would be used from their adjacent private property.

The proposed ROW is located in the Little Lost Valley in the Summit Creek area. The ROW would include 6 segments on 3 existing roads. The segments of roads are located on public lands described as follows:

T. 11 N., R. 25 E., Boise Meridian, Idaho See Exhibit A

Section 23: N $\frac{1}{2}$ (segment 1)

Section 24: SW $\frac{1}{4}$ NE $\frac{1}{4}$ (segment 2)

T. 11 N., R. 26 E., Boise Meridian, Idaho

Section 10: lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ (segment 6)

Section 19: SE $\frac{1}{4}$ NW $\frac{1}{4}$ (segment 3)

Section 30: SW $\frac{1}{4}$ NE $\frac{1}{4}$ (segment 4), NW $\frac{1}{4}$ SE $\frac{1}{4}$ (segment 5)

Approximately 3,050 feet of road segment 1 lies within the bounds of the Challis Field Office. The remainder of the ROW is located within the Upper Snake Field Office boundary. The ROW would be approximately 2.56 miles (13,515 feet) in length, 20 feet in width; encumbering 6.20 acres of public land.

CONSULTATION AND COORDINATION:

This project was brought before an Interdisciplinary Team of Bureau of Land Management (BLM) specialists on several occasions, most recently on March 27, 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, Appendix 4 E16 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 a road right-of-way, BLM serial No. IDI-36241, be issued to Bear Mountain LLC for access into their private lands in Custer County. The grant would be issued for 30 years (approximately), expiring on December 31, 2043. The grant would allow for legal access and road maintenance on 6 segments of 3 existing roads, approximately 2.56 miles in length with a width of 20 feet, encumber 6.20 acres of public land. 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 right-of-way grant, IDI-36241, allowing the use and maintenance of 6 segments of 3 existing roads on public land in Custer County. The grant, as described above, would be issued for 30 years expiring on December 31, 2043. The authorization would include the right to renew and would be subject to the current terms and conditions found at 43 CFR 2800 and the attached stipulations (Exhibit B). 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, Appendix 4 E16. None of the exceptions found in 516 DM 2, Appendix 2 apply.

LAND USE PLAN CONFORMANCE:

The proposed action is in conformance with the 1985 Medicine Lodge Resource Management Plan (RMP). The RMP Record of Decision allows for utilities and transportation corridors.

This proposed action is in conformance with the Final Challis Resource Management Plan and EIS 1999, page. 35, Land Tenure and Access” – Goal 3: Consider public needs for use authorizations, such as rights-of-way, leases, permits, and withdrawals. Rationale: Required by law, regulations, and policy.

APPEALS INFORMATION:

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

 /s/ Becky Lazdauskas
Realty Specialist

 April 5, 2013
Date

 /s/ Juley Smith
NEPA Reviewer

 April 5, 2013
Date

 /s/ Jeremy Casterson
Upper Snake Field Manager

 April 5, 2013
Date

Extraordinary Circumstances Requiring Preparation of an EA or EIS

(516 DM 2, Appendix 2)

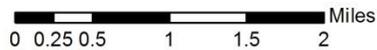
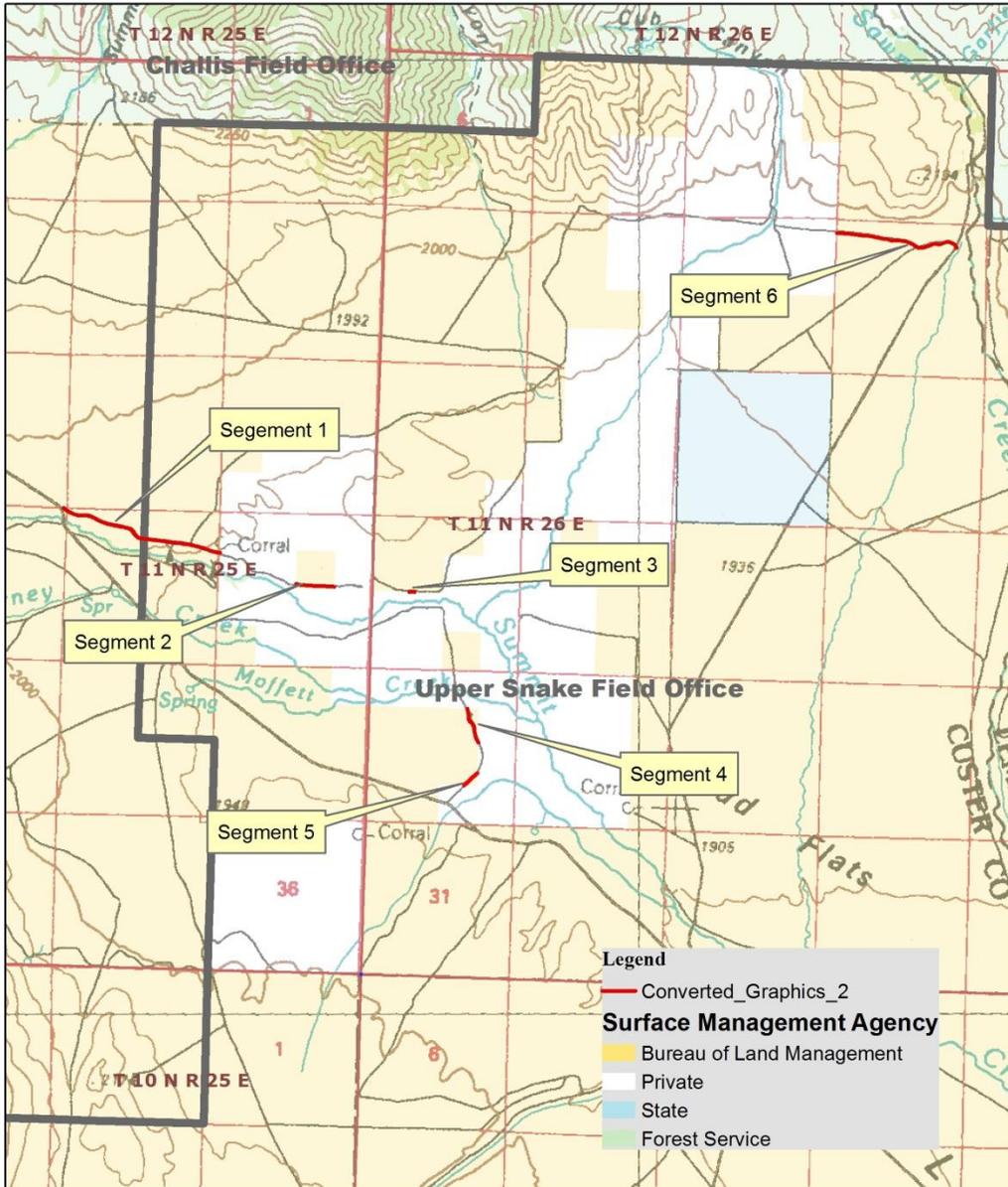
The action described in categorical exclusion # ID- I010-2013-0027-CX IDI-36241 has been reviewed to determine that none of the extraordinary circumstances listed below pertain to the proposed action.

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-36241 BEAR MOUNTAIN LLC ROAD RIGHT-OF-WAY

EXHIBIT A
T. 11 N., RS. 25 and 26 E., BM Idaho
March 28, 2013



DRAFT MAP
No warranty is made by the Bureau of Land Management for the accuracy or completeness of this data.



Exhibit B
Stipulations
IDI-36241

1. To minimize noise disturbance on sage-grouse leks, no maintenance activities are permitted within 0.6 miles of occupied sage-grouse leks from 6:00pm to 9:00am from March 15 through May 1. This stipulation will apply to road segment #6 (refer to Exhibit A). If other leks are identified along the right-of-way, the holder will be notified and this stipulation will apply. Any exceptions to this requirement must have prior written approval from the authorized officer.
2. The holder shall allow administrative access to BLM across private land to the isolated parcels of public land within their private holdings (see Exhibit A-Map). The BLM must have prior permission to enter the private land. Administrative access is necessary to monitor the right-of-way and conduct other inventories and studies on the public land.
3. Holder shall remove only the minimum amount of vegetation necessary for the use and maintenance of the existing road.
4. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
5. No construction or 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 4 inches deep, the soil shall be deemed too wet to adequately support construction equipment.
6. 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.
7. 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 (within limits imposed in the grant stipulations).
8. As directed by the authorizing officer, the holder is required to ensure that the right-of-way is well-drained by water baring or other method of maintaining drainage. Should erosion or damage occur, additional measures, as approved by the Authorized Officer, may be necessary to minimize damage to the ROW or surrounding public lands.
9. 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.

10. The holder of right-of-way No. ID-36241 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.
11. 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.
12. 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.
13. 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.
14. 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 shall 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.