

## DECISION RECORD

Dolven Right-of-Way Amendment for Road Re-alignment  
DOI-BLM-ID-B010-2013-0039-EA

Based on a review of the Environmental Assessment (EA) and Finding of No Significant Action (FONSI), which this decision record incorporates by reference, I have decided to authorize the amendment of BLM right-of-way IDI-34451 to allow for the re-alignment of the existing access drive to private property. The total area affected would encompass approximately 2.3 acres of public lands.

### **Authorities:**

The authority for this decision is contained in Federal Land Policy Management Act of 1976, as amended [43 U.S.C. 1761], which provides authority for the Secretary of the Interior, in his discretion, to grant rights-of-way on lands under its jurisdiction according to federal regulation found at 43 C.F.R. § 2802.10.

### **Compliance and Monitoring:**

As part of this decision, and in conformance with 43 C.F.R. § 2805.12 BLM will monitor the construction, operation and termination of the approved use within this right-of-way.

### **Terms / Conditions / Stipulations:**

As part of this decision, the following stipulations will be adhered to by the right-of-way holder:

1. The Holder is required to submit a bond or other security acceptable by the BLM to cover the potential costs that may be incurred by the United States Department of Interior, Bureau of Land Management in the event that the holder of the right-of-way default on any requirement incorporated into the right-of-way instrument. The bond shall remain in place until the BLM's authorized officer issues a decision in writing that all requirements have been met. The bond shall be in the amount determined by the BLM.
2. The holder shall notify the authorized officer of any change of mailing address.
3. The United States retains the right to authorize use of the right-of-way for other compatible uses (including the subsurface and air space).
4. 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.

5. Use of pesticides, herbicides, and rodenticides shall comply with the applicable Federal and State laws, and only in accordance with their registered uses.
6. 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.
7. 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.

8. 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.
9. 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.

**PLAN CONFORMANCE AND CONSISTENCY:**

The action alternatives within the EA have been reviewed and found to be in conformance with the Cascade Resource Management Plan, Final Environmental Impact Statement (RMP) and Record of Decision (RMP-ROD), July 1988.

*"Over 480,000 acres of the resource area is available for various types of rights-of-ways." (Page 13)*

**Alternatives Considered:**

Alternatives considered include no action (leaving road where it currently exists) or the action alternative (re-alignment of the road).

**Decision and Rationale:**

It is my decision to authorize the amendment to BLM right-of-way IDI-34451 for the re-alignment of the existing access road as proposed by the applicant. The action would allow for the proposed right-of-way to be amended in length from 400 ft. to 970 ft. in length with an amended width from 40 ft. to 100 ft. The width would be increased for a term of 5 years, or until proof of construction is provided, at which time the width would be reduced to the 40 ft. width required to maintain the roadway. Therefore, the initial right-of-way would be issued for a total area of 2.3 acres and upon proof of construction and rehabilitation, or the term of 5 years; the right-of-way would be reduced to 0.9 acres. Strict adherence to the reclamation of temporary construction areas and unused areas of the previous road will be enforced. This would encompass approximately 2.3 acres of public land as described in Alternative B of the Environmental Assessment # DOI-BLM-ID-B010-2013-0039-EA. The actions analyzed in the Environmental Assessment will not constitute a major federal action that would significantly affect the quality of the human environment; therefore, an Environmental Impact Statement was not required and a finding was made of no significant impact (FONSI – signed June 4, 2013).

**Appeal:** Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at the Bureau of Land Management Four Rivers Field Office, 3948 Development Avenue, Boise, Idaho, 83705. If a statement of reasons for the appeal is not included with the notice, it must be filed with the *Interior Board of Land Appeals (IBLA), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203* within 30 days after the notice of appeal is filed with the authorized officer.

To file a petition for stay pursuant to 43 CFR part 4.21(b), it must accompany your notice of appeal and must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a notice of appeal and petition for stay must be served on each adverse party named in the decision from which the appeal is taken and on the *Office of the Solicitor, Field Solicitor – U. S. Department of the Interior, University Plaza, 960 Broadway Avenue, Suite 400, Boise, Idaho, 83706*, not later than 15 days after filing the document with the authorized officer and/or IBLA.

If you have any questions regarding this decision, or your appeal rights, please contact Jeremy Bluma, Realty Specialist, at (208) 384-3348, or e-mail him at [jbluma@blm.gov](mailto:jbluma@blm.gov).

/s/ Terry A. Humphrey  
Terry A. Humphrey  
Four Rivers Field Manager

12/2/2013  
Date