

CATEGORICAL EXCLUSION

Project Name/ Applicant: Ken Estep Road Right-of-Way.

Project/Case File Number: IDI-37719

Project Lead: Danny Miller

CX Number: DOI-BLM-ID-I020-2014-0030-CX

Date of Preparation: April 14, 2014

PROPOSED ACTION:

On April 8, 2014, Ken Estep submitted an application (SF-299) requesting a right-of-way across an existing road on BLM managed Federal Land. In return Mr. Estep would grant a public right-of-way across his private land to be used to access BLM managed Federal Land. The Federal Land is legally describes as:

Boise Meridian, Power County, Idaho

T. 10 S., R. 33 E., sec. 20, NW¼, N½SW¼.

The right-of-way road sought under the application would provide the applicant, an adjacent private land owner, the ability to cross public land to gain access to his private land. The right-of-way route would use an existing road. The applicant seeks a 2,550 feet long and 30 feet wide right-of-way which, would encumber 1.76 acres more or less of public land.

In exchange for the right-of-way over public land the applicant would grant a public right-of-way across his land that would be 6050 feet long and 30 feet wide which would encumber 4.2 acres more or less of private land. The right-of-way route over the private land would also use an existing route.

The proposed action is to issue a grant of right-of-way authorization to Mr. Ken Estep for a period of 10 years, expiring on December 31, 2024. The issuance of the grants of right-of-way is 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:

On April 21, 2014, this project was brought before an Interdisciplinary Team consisting of Bureau of Land Management (BLM) specialists. A description of the proposed action was posted to the online NEPA register. This is available to members of the public through the Pocatello Field Office webpage. No comments have been 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) which states; “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 purposes.” None of the extraordinary circumstances described in 43 Code of Federal Regulations (CFR) 46.215 applies. Standard stipulations currently used for rights-of-ways would be incorporated into the grant.

I recommend that the right-of-way authorization, IDI-37719 be granted for approximately 10 years, expiring on December 31, 2024. 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 will be waived in accordance with 43 CFR 2806.15(b)(4).

DECISION AND RATIONALE FOR THE DECISION:

It is my decision to issue a grant of right-of-way to Ken Estep for IDI-37719, authorizing the use of an existing road on public land, under the authority of Title V of Public Law 94-579 (Federal Land Policy and Management Act). The right-of-way encumbers approximately 1.76 acres. The grant would be issued for approximately 10 years, expiring on December 31, 2024, with the right to renew, subject to the current terms and conditions found at 43 CFR 2800 and the attached stipulations (see Exhibit B). Rent will be waived in accordance with 43 CFR 2806.15(b)(4).

The subject action qualifies as a Categorical Exclusion and meets the criteria contained in 516 DM 2, 11.9 E (16). None of the exceptions found in 43 Code of Federal Regulations (CFR) 46.215 applies.

LAND USE PLAN CONFORMANCE:

The Proposed Action is located in Bannock County, Idaho, within the boundaries of the Pocatello Field Office. The controlling Land Use Plan for this public land is the Pocatello Resource Management Plan (RMP) (April 2012) and was approved on July 10, 2012. The RMP states in part under **Action LR-6.1.6.** (pg. ARMP-84) that,

“For right-of-ways (ROW’s) which include energy and non-energy related ROW’s and Land Use Authorizations (LUA’s), 590,000 acres will be managed as Open Areas; 21,900 acres will be managed as Avoidance Areas and 1,900 acres will be managed as Exclusion Areas these areas are defined as follows:”

“Open Areas – These are areas not identified as avoidance or exclusion areas and are open to ROWs and land use authorization proposals.”

The proposed action is in an Open Area therefore, authorizations can be granted for all types of Land Use Authorizations and Right-of-Ways.

APPEALS INFORMATION:

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

Danny Miller, Realty Specialist, 
Date: 4-22-14

Blaine Newman, NEPA Reviewer, 
Date: 4/23/2014

David A. Pacioretty, Pocatello Field Manager, 
Date: 4/24/2014

Extraordinary Circumstances Requiring Preparation of an EA or EIS

(43 Code of Federal Regulations (CFR) 46.215)

The action described in categorical exclusion # ID- I010-2014-0030-CX has been reviewed to determine that none of the extraordinary circumstances listed below pertain to the proposed action.

<u>DM</u> #	<u>Extraordinary Circumstance</u>	<u>YES</u>	<u>NO</u>
1	Have significant impacts on public health or safety. <i>The existing road has been in place for at least 22 years. The proposed action will have no significant impacts on health or safety of the public.</i>		X
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. <i>No wilderness, wilderness study areas and wild and scenic rivers are present near the project area. The ROW proposal would not impede opportunities for recreation.</i> <i>This project is not located within an Area of Critical Environmental Concern (ACEC) or Research Natural Area (RNA).</i> <i>No known historic or cultural resources are located within the project area. This action is exempted under the State Protocol agreement between BLM and Idaho State Historic Preservation Offices (SHPO) under exempted action #24.</i>		X
3	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]. <i>Action will not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. The existing road has been in place for at least 22 years, and no known highly controversial or potentially significant environmental effects have resulted and should not result from the issuing of a road ROW. Action will not impact water quality or stream channels and floodplains.</i>		X
4	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. <i>Action will not impact water quality or stream channels and floodplains. The existing road has been in place for at least 22 years, and no known highly uncertain and potentially significant environmental effects or unique or unknown environmental risks have resulted and should not result from the issuing of a road ROW.</i>		X
5	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. <i>The proposed action would authorized the use of an existing road as a ROW. There would be no new ground disturbing activities as a result of the action. The road has been in existence for at least 22 years. The proposed action would not establish a</i>		X

<u>DM</u> #	<u>Extraordinary Circumstance</u>	<u>YES</u>	<u>NO</u>
	<i>precedent for future actions. However, any new ground disturbing activities would require NEPA analysis to be done and the effects evaluated.</i>		
6	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. <i>The proposed action would not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. The road has been in existence for at least 22 years and no cumulatively significant effects are anticipated. No cumulatively significant effects anticipated for the stream channel/floodplain.</i>		X
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. <i>As there are no known historic properties listed or eligible for listing on the NRHP located in the project area, the proposed action would have no significant impacts.</i>		X
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. <i>As there are no T&E or Proposed species, or critical habitat present within the project area, no significant impacts to these species would be expected. There are no T&E species or critical habitat present within the project area, no significant impacts to these species would be expected.</i>		X
9	Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. <i>The proposed action does not violate any federal law or a State, local, or tribal law or requirement imposed for the protection of the environment. No cumulatively significant effects anticipated.</i>		X
10	Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). <i>The existing road has been in place for at least 22 years and the proposed action would have no adverse effect on low income or minority populations.</i>		X
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). <i>There are no sacred sites known to occur in the project area. Furthermore, the project will not limit access to Indian sacred sites on Federal lands or impact traditional resource use in the area.</i>		X
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). <i>The proposed action will have no on the ground changes to the already existing road. Standard terms and conditions for weeds are included in the authorization. The proposed action will not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species.</i>		X

Exhibit B - Stipulations

IDI-37719

1. The Holder shall notify the authorized officer of any change of mailing address within 30 days.
2. Holder agrees to allow the public to utilize his private property existing roadways as right-of-way to access other federal lands adjacent to his property in exchange for a rental waiver Pursuant to 43 CFR 2806.15 (b)(4).
3. The Holder should avoid travel on roads, trails, and maintenance routes that would create ruts greater than 3 inches in depth. Because of constrained outage windows, some maintenance activities will necessarily occur where ruts will be greater than 3 inches in depth. If the creation of ruts greater than 3 inches is unavoidable, the Holder will 1) notify the IPC ROW Team Manager, so that the authorized officer can begin to determine remedial actions; 2) flag avoidance areas within the previously disturbed road, trail or maintenance route surface to minimize or avoid resource damage; and 3) upon completion of the maintenance project, and when the conditions are appropriate for remedial work, the Holder will re-grade the road, trail or maintenance route to a condition comparable to the condition prior to disturbance, or as required by the authorized officer.
4. The Holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
5. The Holder shall conduct all activities associated with the operation, maintenance, and termination of the roads within the authorized limits of the Right-of-Way (ROW) and shall maintained the ROW in a sanitary condition at all times; waste materials 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.
6. Use of herbicides shall comply with the applicable Federal and state laws and shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior.
7. The Holder(s) shall comply with all applicable Federal, State and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any Hazardous Materials, as defined in this paragraph, that will be used, produced, transported or stored on or within the R/W or any of the R/W facilities, or used in the construction, operation, maintenance or termination of the R/W or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the CERCLA of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as

material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the Holder's commencement of any termination activities.

13. 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 lease 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.