

**U.S. Department of the Interior**  
**Bureau of Land Management**  
Spokane District  
San Juan Islands National Monument  
37 Washburn Place  
Lopez, WA 98261-5527

**Decision Record**  
U.S. Coast Guard Road Access  
DOI-BLM-ORWA-W040-2016-0003

## 1. Background

The Bureau of Land Management (BLM), San Juan Islands National Monument proposes to issue a right-of-way to the U.S. Coast Guard as described in Categorical Exclusion (CX) DOI-BLM-ORWA-W040-2016-0003 (attached). The U.S. Coast Guard has requested a right-of-way to allow ingress and egress to the Cattle Point Light Station to make repairs to the site located at T. 24 N., R. 2 W., Sec 8, Lot 19, Willamette Meridian on San Juan Island.

The U.S. Coast Guard is planning to conduct preservation work at the Cattle Point Light Station. The work includes stabilizing the structure's foundation, restoring the existing earthwork to original grades, repainting the exterior surfaces, and replacing the entrance door. The Cattle Point Light Station is located on the southeastern tip of San Juan Island, Washington (see attached map). Both the land and structure are managed by the U.S. Coast Guard. The U.S. Coast Guard currently holds a right-of-way to access the light station; however, since the right-of-way was established in 1964 the right-of-way has become overgrown by vegetation and is no longer usable. The U.S. Coast Guard requires a new right-of-way to access their land. The access would be approximately 15 feet wide to allow contractor's trucks access. The U.S. Coast Guard anticipates that 400 cubic yards of soil materials will be imported by trucks with a 10 cubic yard capacity. Upon completion of the preservation project, the contractor will be required to restore the road access to its original, pre-construction contours and also restore the vegetative grass cover.

## 2. Decision

I have decided to authorize a new right-of-way (WAOR-67814) to authorize the U.S. Coast Guard to use an existing trail across BLM-administered land as described in the attached Categorical Exclusion (DOI-BLM-ORWA--W020-2016-0009-CX). The grant would be for a term of 30 years and would include the terms and conditions described in Exhibit of the Categorical Exclusion. The right-of-way would vary from 50 to 100 feet wide and would be 3.133 miles in length for a total of 30.77 acres on public land. This authorization would consolidate the three expired rights-of-way.



### 3. Authority and Rationale for Decision

My decision is issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 R.S.C. 1761). Because the access road would be restored to its original, pre-construction condition, authorizing this right-of-way will not cause any undue or unnecessary degradation of public lands. As described in Categorical Exclusion DOI-BLM-ORWA-W020-2016-0009-CX, the impacts of authorizing the use of the existing road will not be significant.

### 4. Administrative Review or Appeal Opportunities

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. To appeal this decision you must file a notice of appeal at the BLM Wenatchee Field Office, 915 N. Walla Walla Ave., Wenatchee, Washington 98801, within 30 days from receipt of this decision. The appeal must be in writing and delivered in person, via the United States Postal Service, or other common carrier, to the Wenatchee Field Office as noted above. The BLM does not accept appeals by facsimile or email. The appellant has the burden of showing that the decision appealed from is in error.

My decision is issued in accordance with 43 CFR 2801.10(b) and may be implemented immediately. This decision will remain in effect while appeals are pending unless a stay is granted under 43 CFR 4.21 (b).

If you wish to file a petition pursuant to 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards: (a) The relative harm to the parties if the stay is granted or denied, (b) The likelihood of the appellant's success on the merits, (c) The likelihood of immediate and irreparable harm if the stay is not granted, and (d) Whether the public interest favors granting the stay.

Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (see 43 CFR 4.413); Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, OR 97205; at the same time the original documents are filed with this office.

/s/ Marcia deChadenedes

05/11/2016

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Marcia deChadendes  
Monument Manager

\_\_\_\_\_  
Date

Attached: Project Map  
Categorical Exclusion Documentation

## Categorical Exclusion Documentation

U.S. Department of the Interior  
Bureau of Land Management, Spokane District  
San Juan Islands National Monument  
37 Washburn Place  
Lopez, WA 98261-5527

### A. Background

*BLM Office:* San Juan Islands National Monument

*Lease/Serial/Case File No.:* WAOR-67814

*NEPA Log Number:* DOI-BLM-ORWA-W040-2016-0003-CX

*Proposed Action Title:* U.S. Coast Guard Road Access

*Location of Proposed Action:* T. 24 N., R. 2 W., Sec 8, Lot 19, Willamette Meridian

*Proposed Action:* The Bureau of Land Management (BLM), San Juan Islands National Monument is proposing to issue a right-of-way to the U.S. Coast Guard. The U.S. Coast Guard has requested a right-of-way to allow ingress and egress to the Cattle Point Light Station to make repairs to the site.

The U.S. Coast Guard is planning to conduct preservation work at the Cattle Point Light Station. The work includes stabilizing the structure's foundation, restoring the existing earthwork to original grades, repainting the exterior surfaces, and replacing the entrance door. The Cattle Point Light Station is located on the southeastern tip of San Juan Island, Washington (see attached map). Both the land and structure are managed by the U.S. Coast Guard. The U.S. Coast Guard currently holds a right-of-way to access the light station; however, since the right-of-way was established in 1964 the right-of-way has become overgrown by vegetation and is no longer usable. The U.S. Coast Guard requires a new right-of-way to access their land. The access would be approximately 15 feet wide to allow contractor's trucks access. The U.S. Coast Guard anticipates that 400 cubic yards of soil materials will be imported by trucks with a 10 cubic yard capacity. Upon completion of the preservation project, the contractor will be required to restore the road access to its original, pre-construction contours and also restore the vegetative grass cover.

### B. Land Use Plan Conformance

Public lands in the San Juan Islands National Monument are not covered by a resource management plan. In accordance with land use planning regulations (43 CFR 1610.8 (b) (1)), a proposed action on such lands may be authorized if supported by appropriate analysis. The proposed action is consistent with preservation of the objects identified in the 2013 Presidential Proclamation that established the San Juan Islands National Monument. The Proclamation recognizes that several structures were built in the late 19th century to aid in maritime navigation. The historic lighthouse at Cattle Point is one



such structure and allowing the U.S. Coast Guard access to preserve this historic lighthouse is consistent with protecting historic objects in the San Juan Islands.

### **C. Compliance with NEPA**

The proposed action is categorically excluded from further documentation in an environmental assessment or environmental impact statement. The proposed action is a kind of action that has been determined to fit within a category of actions that do not individually or cumulatively have significant effects on the human environment. The proposed action falls within category: 516 DM 11.9.E(19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition. The proposed action allows the temporary construction of road access for use in conducting preservation work to the Cattle Point Light Station. Once preservation work is complete, the road access will be restored to its original condition.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply, as described below:

*a. The proposed action would not have significant impacts on public health or safety.*

The proposed action would not have significant impacts on public health or safety because it would allow the U.S. Coast Guard to access the Cattle Point Light Station and conduct preservation work that will protect public health and safety. The preservation work will stabilize the light house, reduce erosion, and protect the public from the current dangerous conditions.

*b. The proposed action would not 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.*

While the project area is located within the San Juan Islands National Monument, the proposed activities are not expected to have significant effects on the unique geographic characteristics of the monument or on other ecologically significant or critical areas because most of these characteristics are not present at the site.

Species protected under the Migratory Bird Treaty Act might occur in the project area. Migratory birds that may utilize the project area include bald eagle, black oystercatcher, black swift, Caspian tern, pink-footed shearwater, purple finch, rufous hummingbird, and short-billed dowitcher. The proposed road construction and preservation work would occur after the end of nesting periods and at some distance from any known breeding colonies. None of the above-listed species are likely to be affected by the proposed action because proposed construction would not affect any nests and would occur outside the nesting period.

Historic and cultural resources, including the historic Cattle Point Light Station, are present at or near the site. A Determination of No Adverse Effects to Historic Properties was reached in consultation with the State Historic Preservation Office (SHPO) on April 19, 2016. The Samish Indian Nation indicated in the message of April 12, 2016 no concerns with the project at this time. No other concerns were received regarding cultural resources in the project's area of potential effects.

*c. The proposed action would not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*

The proposed action would not have any highly controversial environmental effects; there was no dispute about the size, nature, or effect of the proposed access road or the U.S. Coast Guard's proposed restoration work. The impacts of constructing a short, temporary access road and then restoring the area to its original condition are well understood. Other similar projects have been routinely implemented on BLM-administered land.

*d. The proposed action would not have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*

The environmental effects of the proposed action are not highly uncertain, unique, or potentially significant. The effects of constructing a short access road are well understood. The area consists primarily of grasses overlaying sandy soils. Restoration of the access road, including replanting vegetation if needed, will ensure any environmental effects are temporary.

*e. The proposed action would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.*

The proposed action does not set a precedent for future actions with significant effects or represent a decision in principle about a future consideration. There are no reasonably foreseeable proposals connected to the proposed action other than the U.S. Coast Guard proposal to conduct preservation work. The U.S. Coast Guard prepared a categorical exclusion determination in October 2015 and determined the preservation work is not expected to result in any significant adverse environmental impacts. This decision does not bind the BLM as to any other decisions at this or other locations in the future. Because this action does not set a precedent, or represent a decision in principle about a future consideration, the effects of the project will not be significant.

*f. The proposed action would not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*

The proposed access road has a direct relationship to the U.S. Coast Guard proposal to conduct preservation work at the Cattle Point Light Station. The U.S. Coast Guard prepared a categorical exclusion determination in October 2015 and determined that the preservation work, including the temporary access road, would not result in cumulatively significant environmental effects. Because the incremental contribution of the proposed access road relatively benign effects to the effects of other past, present, and reasonably foreseeable future action is minor, the cumulative effects of this project would not be significant.

*g. The proposed action would not have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.*

The Cattle Point Lighthouse is a historic property managed by the U.S. Coast Guard. The U.S. Coast Guard has determined the site eligible for inclusion on the National Register of Historic Places. The area of potential effects (APE) was inventoried for the United States Coast Guard (USCG) in 2012. The report, *Archaeological Survey of the USCG Cattle Point Light Repair* by Rooke and Cooper, indicates that no archaeological resources were found in the APE during the field investigation for the project. The USCG initiated consultation with the Department of Archaeology and Historic Preservation (DAHP) regarding proposed fencing and preservation work at the Cattle Point Lighthouse in 2013, in the summer of 2015, and again on October 16, 2015 (Log# 073015-09-USCG, 040213-06-USCG). The DAHP concurred with the Determination of No Adverse Effect by USCG in the letter of November 13, 2015. The proposed work included stabilizing the structure's foundation, restoring the existing earthwork to original grades, repainting the exterior surfaces, and replacing the entrance door. The repairs to the lighthouse and ground disturbance associated with road access improvements will not impact any known archaeological resources. Consultation regarding the proposed right of way by BLM to the USCG was initiated by letters dated April 7, 2016 with the DAHP, the San Juan Historical Society, the Samish Indian Nation, the Swinomish Indian Tribal Community, and the Lummi Nation. DAHP concurred with the Area of Potential Effect (APE) and the determination of No Adverse Effect for the undertaking by BLM on April 19, 2016. On April 12, 2016, the Samish Indian Nation indicated no concerns with the project at this time. No other concerns were received regarding cultural resources in the area of potential effects for the undertaking. The Cattle Point Lighthouse is listed in the Washington State Historic Property Inventory and is recommended eligible to the National Register of Historic Places. While the proposed short term right of way would provide access to the light station for the preservation efforts by the USCG, the effects from authorizing the ROW for the undertaking are not expected to be adverse. Should previously unidentified cultural resources be identified during project implementation, work in the area of the discovery would be halted and the DAHP and the consulting tribes would be contacted.

*h. The proposed action would not 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.*

Several species that are listed on the federal Endangered Species Act as threatened or endangered may occur or be transients through the area. Additionally, one candidate for listing may also occur in the project area.

<b>Common Name</b>	<b>Scientific</b>	<b>Status</b>	<b>Critical Habitat in Project Area</b>
Killer Whale (southern resident)	<i>Orcinus orca</i>	Endangered	Designated
Marbled Murrelet	<i>Brachyramphus marmoratus</i>	Threatened	No
Streaked Horned Lark	<i>Eremophila alpestris strigata</i>	Threatened	No
Yellow-Billed	<i>Coccyzus americanus</i>	Threatened	No

Cuckoo			
Island Marble Butterfly	<i>Euchloe ausonides insulanus</i>	Candidate	No

The proposed action would have No Effect on Southern Resident Killer Whales or killer whale designated critical habitat. The proposed action would occur entirely on the upland, and would contribute only minimally to erosion of soils in the Cattle Point area. The lighthouse is sufficiently far from the water and any disturbed soil would not be deposited in the ocean.

The proposed action would have No Effect on Marbled Murrelet, Streaked Horned Lark or Yellow-Billed Cuckoo. Marbled murrelet feed in coastal and offshore areas and nest primarily in old growth forests. The project is not within range of their designated critical habitat and they are extremely unlikely to be found at the project site or disturbed by construction activities. Streaked horned larks and yellow-billed cuckoos are not known to occur in the San Juan Islands.

The proposed action would have No Effect on Island Marble Butterfly. The Island marble butterfly was considered extinct as recently as 1999; however small communities of the butterfly have been identified since then on open grasslands, sand dunes, roadsides, and agricultural and disturbed land on the San Juan Islands. WDFW has been surveying for this species at Cattle Point since 2005, but no island marble butterflies have been observed since 2008. The lack of suitable host plants and heavy deer herbivory are the primary reasons island marbles do not currently utilize this area.

No federally threatened or endangered plants are known to occur on Cattle Point land managed by the BLM. Golden paintbrush, *Castilleja levisecta*, was documented in the area in 1939. However, this population is considered extirpated from the site and the plant has not recently been recorded on BLM lands in the area. The proposed action would have No Effect on golden paintbrush.

*i. The proposed action would not violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.*

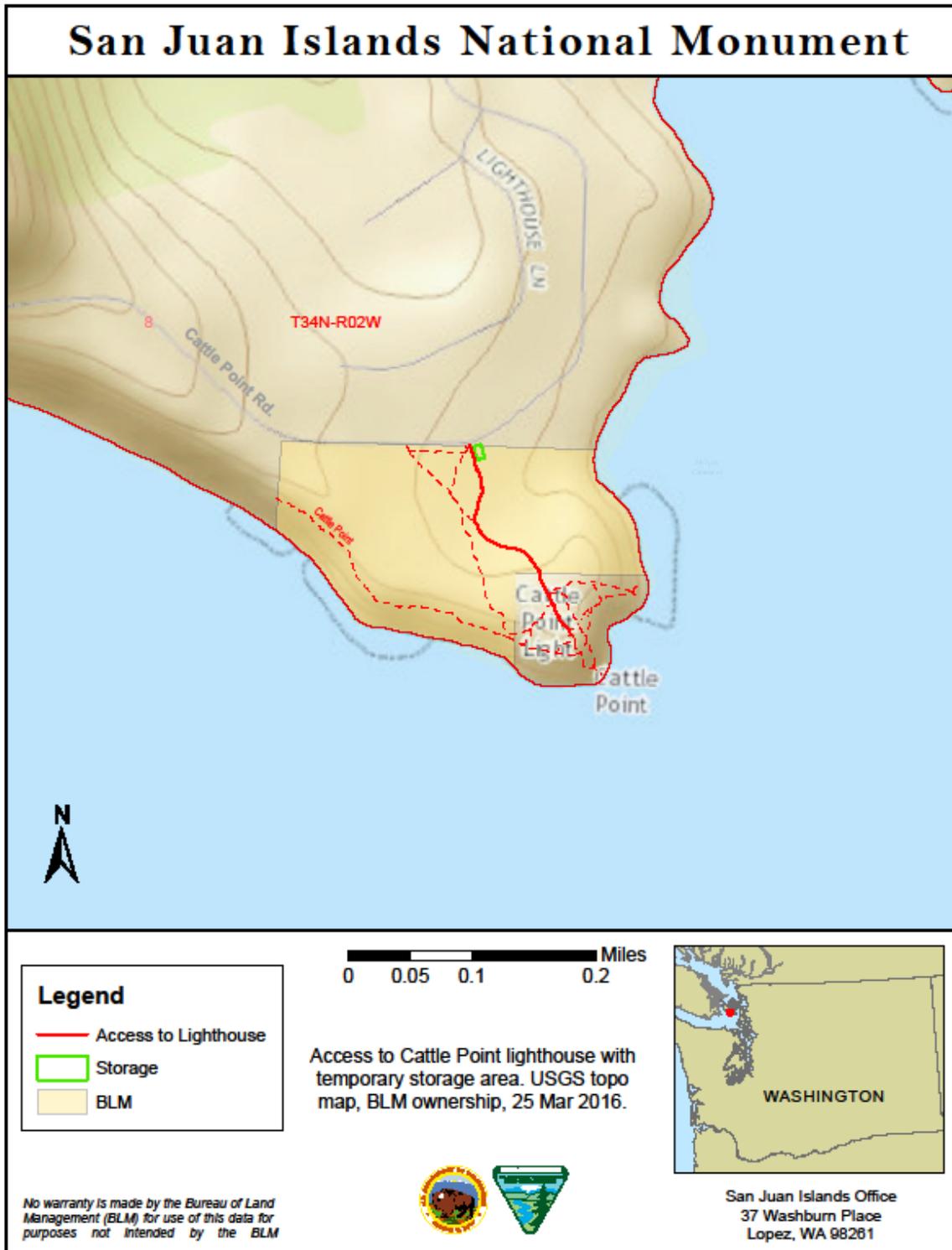
The proposed action does not threaten to violate any Federal, State, local, or tribal law imposed for the protection of the environment. The proposal to allow the U.S. Coast Guard to construct a short, temporary access road to conduct preservation work at the Cattle Point Light Station will repair erosion that has occurred and protect the foundation of the lighthouse. The U.S. Coast Guard has designed their preservation work to minimize potential environmental impacts by minimizing the amount of soil disturbance, utilizing sediment control measures, and replanting native vegetation as needed. Therefore, allowing the U.S. Coast Guard to construct a temporary access road and restoring the land to its original condition would not result in any significant effect.

*j. The proposed action would not have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).*

Implementation of the proposed action will not have a disproportionately high or adverse effect on low income or minority populations because the proposed access road is temporary and the area would be restored to its original condition once the preservation work is complete.



Attachment A: Map



Attachment B:

Cattle Point Access Road, WAOR-67814  
Terms and Conditions

T. 34 N., R. 2 W., Willamette Meridian, San Juan County Washington  
Section 8, Lot 19.

- a. The holder shall comply with all Federal, State, and local regulations whether or not specifically mentioned within this grant.
- b. The Holder shall not initiate any construction or other surface disturbing activities on the right-of-way without prior written authorization of the Authorized Officer. Such authorization shall be a written notice to proceed issued by the Authorized Office. Any such notice to proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described. The Authorized Officer may, upon recommendation by a cultural resource specialist, require a fully qualified archaeologist be present to monitor ground disturbing activities.
- c. Holder shall apply for amendment of this r/w grant at any time additional land, equipment and/or new uses are proposed which are beyond the scope of the rights herein granted.
- d. The drivable surface of the road shall not exceed 20 feet in width.
- e. The Secretary of the Interior, or his lawful delegate, reserves the right to grant additional rights-of-way or permits for compatible uses on, over, under, or adjacent to this grant.
- f. If an archaeological resource (historic or prehistoric site or object) is discovered by Holder or any person working on the Holder's behalf, on federal lands, Holder shall immediately stop all operations in the area, immediately notify the Authorized Officer (AO: Field Manager Wenatchee Field Office) verbally, and follow such verbal notification with a written confirmation (certified mail recommended). In accordance with 43 CFR §10.4 (c)(d) and (g), if the discovery includes human remains, funerary items, sacred objects, or objects of cultural patrimony, operations shall remain suspended and the discovery protected for thirty (30) days or until a written notice to proceed is issued by the AO. An evaluation of the resource or remains will be made by the AO and appropriate mitigation actions will be identified in consultation with the SHPO, consulting tribes, and Holder. Holder shall be responsible for evaluation and mitigation costs. All archaeological materials shall remain the property of the United States.
- g. Holder shall protect all survey monuments. 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, Holder shall immediately report the incident, in writing, to the Authorized Officer (AO) 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, 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 of the United States, latest edition. Holder shall record such survey in the appropriate county and send a copy to the AO. Holder shall be responsible to all federal and non-federal survey costs.

h. Holder shall be responsible for weed control within the right-of-way, and shall consult with the Authorized Officer or local authorities for acceptable weed control methods.

i. Pesticide use shall comply with 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 pesticide use, Holder shall obtain from the Authorized Officer (AO) written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method application, location of storage and disposal of containers, and any other information deemed necessary by the AO. Emergency pesticide use shall be approved in writing by the AO prior to such use.

j. Holder of this right-of-way grant or the Holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.

k. 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.

l. Holder shall inform the authorized officer within 48 hours of any accidents on federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195.

m. Holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard 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 (leaks, spills, etc.) of toxic substances 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 of 1980, 42 U.S.C. 9601, et seq., or the Resource Conservation & Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release is wholly unrelated to Holder's activity on the right-of-way). This agreement applies to releases caused by Holder, its agents or unrelated third parties. 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.

n. Holder of right-of-way WAOR-67814 agrees to indemnify the United States against any liability arising from the release or threatened 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 Holder's activity on the right-of-way). This agreement applies to releases caused by Holder, its agents, or unrelated third parties.

o. In the event that the public land underlying the right-of-way (r/w) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the r/w or the land underlying the r/w is not being reserved to the United States in the patent/deed and/or the r/w is not within a r/w corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800], including any rights to have Holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the right-of-way shall be considered a civil matter between the patentee/grantee and the right-of-way Holder.