

CATEGORICAL EXCLUSION

Project Name/Applicant: Draper Existing Access Road Right-of-Way

Project/Case File Number: IDI-38199

Project Lead: Becky Lazdauskas, Realty Specialist

CE Number: DOI-BLM-ID-I010-2016-0023-CX

Date of Preparation: May 24, 2016

PROPOSED ACTION:

On May 10, 2016, Chad Draper submitted an application (SF-299) requesting a right-of-way (ROW) authorization for legal access across an existing road on public land located in Bingham County, Idaho. The road is located in N½NE¼ of section 18, T. 1 N., R. 32 E., Boise Meridian, Idaho.

Mr. Draper is in the process of purchasing approximately 60 acres of private land surrounded by BLM-managed lands and there are no other alternate routes of access to his property. The title company he is working with will not provide title insurance until the applicant secures legal access to the private land. The ROW would allow ingress and egress only, no improvements or maintenance activities would be allowed. The road/ROW is approximately 1,560 feet in length and 15 feet wide, encumbering 0.54 acres, more or less. See Exhibit A showing proposed ROW.

The existing road is located in designated General Greater Sage-Grouse Habitat, see the Attached Greater Sage-Grouse Conformance Review Form. The project area is not in a Sagebrush Focal Area, Key Habitat, or Nesting/Brood Rearing or Wintering Habitat.

The ROW is being requested 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. Rental would be required in accordance with 43 CFR 2806.10.

CONSULTATION AND COORDINATION:

A description of the proposed action was posted on May 23, 2016 to the online NEPA register. This is available to members of the public through the USFO webpage.

FINDING AND RECOMMENDATION:

The proposed action is categorically excluded as outlined in 516 DM 11.9, Appendix 4 E (16) and none of the extraordinary circumstances described in 516 DM 2, Appendix 2 apply. This exclusion 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 may be excluded from further environmental review.

I recommend that a ROW grant, under BLM serial number IDI-38199, be authorized allowing the applicant legal access to his private lands. The ROW would allow ingress and egress only to private land, no maintenance or surface disturbing activities would be allowed. If the applicant

wishes to modify, upgrade or maintain the road, an amendment would be required and further NEPA may be necessary. The grant should be authorized for a 30 year period with the right to renew, subject to current terms and conditions and the attached stipulations (Exhibit B). The ROW 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 in accordance with 43 CFR 2806.10.

DECISION AND RATIONALE FOR THE DECISION:

It is my decision to authorize the above described road ROW, IDI-38199, allowing for legal access to private lands. The ROW is approximately 1,560 feet in length and 15 feet wide, encumbering 0.54 acres, more or less. The grant will be issued for a 30 year period with the right to renew, subject to the current terms and conditions found at 43 CFR 2800 and the attached stipulations (Exhibit B). Advanced rent would be required according to 43 CFR 2806.10.

Issuance of the right-of-way will 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 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 Bingham County, Idaho, within the boundaries of the BLM's Upper Snake Field Office. The *Big Desert Management Framework Plan* USDOJ-BLM, 1981, provides general guidelines for the protection and use of resources in this area. While this action is not specifically addressed in the document, the plan does provide for the consideration of right-of-way applications.

The Proposed Action is in conformance with the *Idaho and Southwestern Montana Greater Sage-Grouse Approved Resource Management Plan Amendments (2015)*. No surface disturbing activities would be authorized and the existing road is more than 4 miles of an occupied lek, therefore; seasonal restrictions would not be applied nor would compensatory mitigation be required.

APPEALS INFORMATION:

Appeal procedures may be found at *43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10.*

/s/ Becky Lazdauskas May 24, 2016
Becky Lazdauskas Date
Realty Specialist

/s/ Jeremy Casterson May 24, 2016
Jeremy Casterson Date
Field Manager

Extraordinary Circumstances Requiring Preparation of an EA or EIS

(43 Code of Federal Regulations (CFR) 46.215)

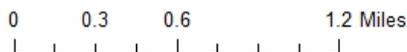
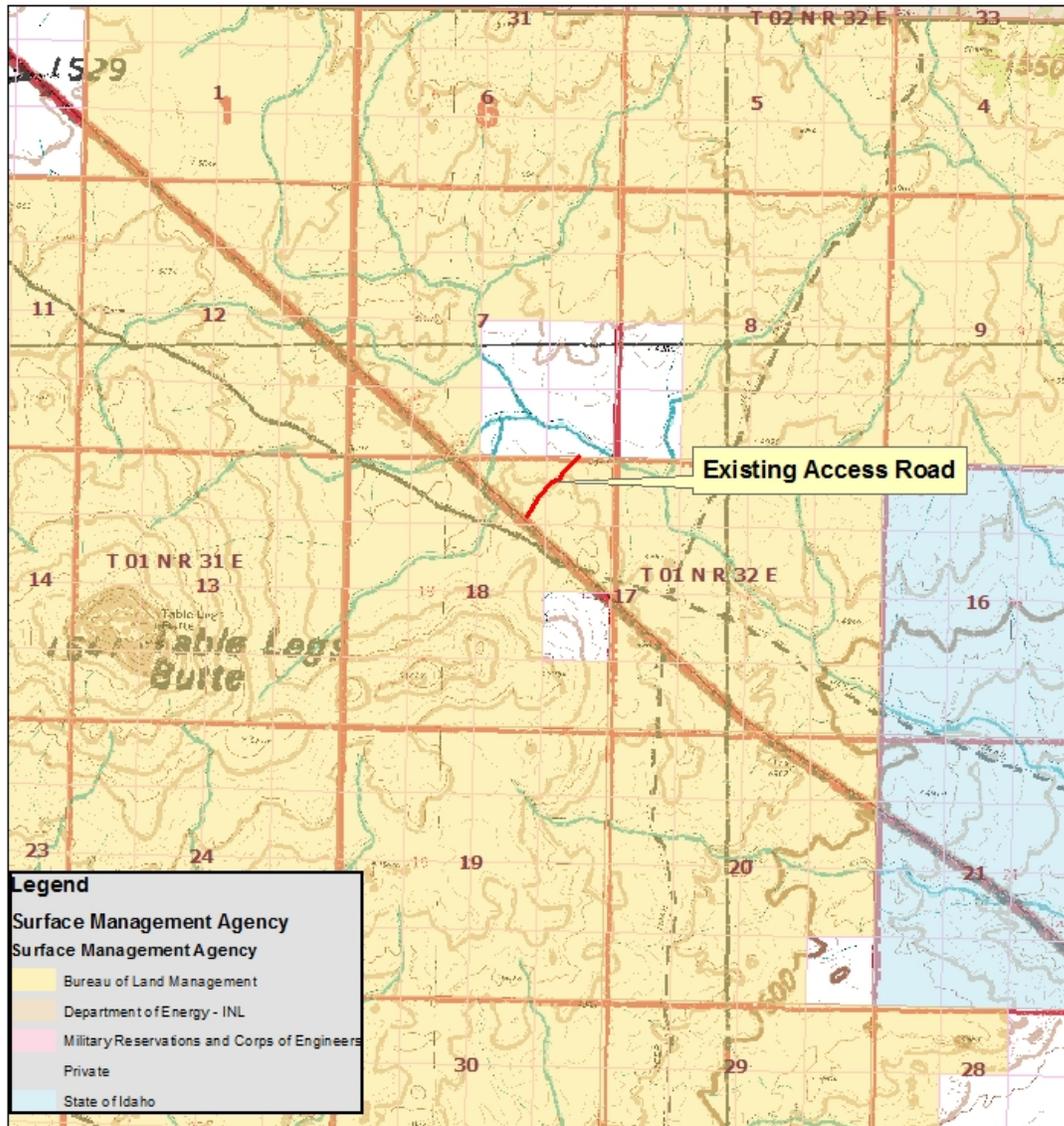
The action described in categorical exclusion # DOI-BLM-ID-I010-2016-0023-CX has been reviewed to determine that none of the extraordinary circumstances listed below pertain to the proposed action.

Extraordinary Circumstance	YES	NO
<p>Have significant impacts on public health or safety. <i>The proposed action would not have significant impacts on health or safety of the public.</i></p>		X
<p>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 or wild and scenic rivers are present in the project area. The project is not located within or near an Area of Critical Environmental Concern or a Research Natural Area (RNA). The project is not within or adjacent to riparian-wetland areas. Although migratory birds are present within the project area, no significant impacts to migratory birds would be expected due to continued use of the existing road. No known historic or cultural resources are located within the project area and the standard stipulation for cultural resources would be a term and condition of the grant.</i></p>		X
<p>Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]. <i>The Proposed Action does not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. No known highly controversial or potentially significant environmental effects have resulted from other roads or recreational facilities existing in the area and should not result from the issuance of a ROW. There would not be an impact to water quality or stream channels and floodplains.</i></p>		X
<p>Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. <i>Action would not impact water quality or stream channels and floodplains. No known highly uncertain and potentially significant environmental effects or unique or unknown environmental risks are expected to result from the issuing of the ROW.</i></p>		X
<p>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 not establish a precedent for future actions. Standard operation would continue to occur in the same manner as other roads in the area. However, any new ground disturbing activities would be addressed and new NEPA would be required and effects evaluated.</i></p>		X
<p>Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.</p>		X

	<u>Extraordinary Circumstance</u>	<u>YES</u>	<u>NO</u>
	<i>The proposed action would not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. No cumulatively significant effects are anticipated. No cumulatively significant effects anticipated for the stream channel/floodplain.</i>		
	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. A field examination for cultural resources is not required per Exemption 14 of the 2014 State Protocol between BLM and SHPO.</i>		X
	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. This action is in conformance with the Idaho and Southwestern Montana Greater Sage-Grouse Approved Resource Management Plan Amendments (2015)</i>		X
	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
	Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). <i>The proposed action would have no adverse effect on low income or minority populations.</i>		X
	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 would not limit access to Indian sacred sites on Federal lands or impact traditional resource use in the area.</i>		X
	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>Standard terms and conditions for weeds are included in the authorization. The proposed action would not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species as the applicant would be responsible for weed control as outlined in the grant stipulations.</i>		X

IDI-38199 Chad Draper Access Road Right-of-Way

EXHIBIT A
NE1/4 of Section 18
T. 1 N., R. 32 E., BM Idaho
May 24, 2016



All measurements by the Bureau of Land Management are to the accuracy indicated. The completeness of these data is not guaranteed. The following control is used: Section 369 computer file network. The following information is provided: 1. 2011 Idaho State Office Code: 4-2004-28-0002



Stipulations IDI-38199

1. **This right-of-way allows legal ingress and egress to private property. No construction activities or road widening is authorized with this grant.**
2. The holder shall permit free and unrestricted public access to and upon the right-of-way for all lawful purposes except for those specific areas designated as restricted by the authorized officer. Gates, fences, and signs shall be placed on private land only.
3. 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.
4. 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.
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. 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.
7. The Holder shall be responsible for weed control, including noxious weeds and non-native invasive plants that result from construction, use, or maintenance authorized in the Holder's ROW grant. The Holder must coordinate with the Authorized Officer and/or local authorities for acceptable weed control measures (within limits imposed in the grant stipulations) prior to implementing weed treatments. If herbicides are to be used for weed control, the applicator(s) shall hold a current State of Idaho applicator's license or be under the direct supervision of a licensed applicator.
8. 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.

9. The holder of right-of-way No. ID-38199 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.
10. 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.
11. 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.
12. 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.