

**RECORD OF PLAN CONFORMANCE AND
CATEGORICAL EXCLUSION (CX) DOCUMENTATION for
CATEGORICAL EXCLUSIONS NOT ESTABLISHED BY STATUTE
Bureau of Land Management (BLM)**

BLM Office: Lakeview District, Klamath Falls Resource Area

Lease or Serial #: _OROR 66380_____

Proposed Action Title/Type: **Assignment/Amendment of Road ROW from JWTR, LLC to
Green Diamond Resource Company**

NEPA Log #: DOI-BLM-OR-L040-2015-20 CX

Project Location: ___ Main Haul Road/Willow Valley Road_____

T.41S., R.15E., Section 19, NW, NWNE. Willamette Meridian
18, S2SE.

17, N2SW,S2SE,NWSE

T.41S., R.14 1/2E., Section 24, LOTS 1,2, AND S2NE.

23, LOTS, 1,2,3,4.

22, LOTS 1,2,3,4.

21, LOTS 1,2,3,4.

20, LOTS 1,2,3,4.

19, LOTS 1,2,4,5,6.

T.41S., R.14E., Section 24, NENE. 13, SESE.

A. Background

Description of Proposed Action:

The proposed action is to assign road right of way from JWTR, LLC to Green Diamond Resource Company. At this time, the ROW is being updated/ amended to include Main Haul Road BLM # 41-15E-17.0 and Willow Valley Road BLM # 41-14-13.0 encompassing 24 feet wide, and 9.04 miles long and contains **26.3** Acres, more or less. Rockwear fees will be part of the ROW agreement as Exhibit C.

Purpose and Need for the Project:

The purpose of the proposed action is for the BLM to respond to the applicant's request for assignment of a Right-of-Way from JWTR, LLC to Green Diamond Resource Company who is the new owner. This action is also to update/amend the haul locations in the current Right of Way.

B. Land Use Plan Conformance

Land Use Plan Name: Klamath Falls Resource Area Resource Management Plan

Date Approved/Amended: June 1995

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): (Refer to page 66) "Continue to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans, Oregon statewide planning goals and rules, and the exclusion and avoidance areas identified in this Resource Management Plan."

C. Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Appendix 4, E-9 - *Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations. E12; Grants of rights of way wholly within the boundaries of other compatibly developed right of ways.*

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 516 DM 2, Appendix 2 apply. The following documentation describes whether or not the extraordinary circumstances apply to the project:

CX Extraordinary Circumstances Documentation		
Will the proposed categorical exclusion action:	YES	NO
2.1 Have significant impacts on public health or safety. Rationale: Consulted with field/district office health and safety specialist and no significant impacts were identified.		X
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. Rationale: The project area was reviewed by resource specialists and they concluded that no unique features are present.		X
2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]. Rationale: No highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources were identified by resource specialist during project analysis.		X
2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. Rationale: No highly uncertain and potentially significant environmental effects or unknown environmental risks were identified by resource specialist during project analysis.		X
2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. Rationale: This is a minor and routine action that will not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. Rationale: No direct relationships to other actions with individually insignificant but cumulatively significant environmental effects were identified by resource specialists during project analysis.		X
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. Rationale: The Area of Potential Effects (APE) is limited to the area of the road. This is an existing right-of-way which has been previously disturbed and inventoried. Cultural resource specialists have determined that there will be no effects to properties listed, or eligible for listing, on the National Register of Historic Places because none are present in the project area.		X
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. Rationale: Resource specialists have reviewed the proposed action and determined that there would be no 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.		X
2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. Rationale: This is a routine BLM action that does not violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). Rationale: Review of the project area locations shows no disproportionately high and adverse effect on low income or minority populations.		X
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). Rationale: Based on the recommendation of cultural resource specialists, the project does not 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.		X
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). Rationale: Refer to Exhibit A (attached) ROW project design features (PDFs).		X

EXHIBIT A

STIPULATIONS/Project Design Features (PDFs) and Best Management Practices (BMPS)

1. Comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and state laws and regulations applicable to the authorized use.
2. Rebuild and repair roads, fences, and established trails destroyed or damaged by the project and or use by ROW holder.
3. Build and maintain suitable crossings for existing roads and significant trails that intersect the project.
4. Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area. Abide by current fire restrictions.
5. Clear vegetation immediately adjacent to structures and improvements for a distance of at least 30 feet, or to the property line, whichever is the shortest distance.
6. Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate.
7. Pay monitoring fees and rent described in 43 CFR Sec. 2805.16 of this subpart and subpart 2806 of this part.
8. If BLM requires, you must obtain, and/or certify that you have obtained, a surety bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property in connection with your use and occupancy of the right-of-way, including terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. BLM may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant.
9. Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (see 43 CFR Sec. 2807.12 of this part).
10. Comply with project-specific terms, conditions, and stipulations.
11. Restore, re-vegetate, and curtail erosion or conduct any other rehabilitation measure BLM determines necessary.
12. Ensure that activities in connection with the grant comply with air and water quality standards or related facility citing standards contained in applicable Federal or state law or regulations.
13. Control or prevent damage to Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat; Public and private property; and Public health and safety;

14. Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant.
15. Notify the Authorized officer of any maintenance or repairs prior to taking any action on the rights-of-way.
16. When the state standards are more stringent than Federal standards, comply with state standards for public health and safety, environmental protection, and citing, constructing, operating, and maintaining any facilities and improvements on the right-of-way.
17. Grant BLM an equivalent authorization for an access road across your land if BLM determines the reciprocal authorization is needed in the public interest and the authorization BLM issues to you is also for road access.
18. Immediately notify all Federal, state, tribal and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify BLM at the same time, and send BLM a copy of any written notification you prepared.
19. Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant.
20. Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq., when you receive, assign, renew, amend, or terminate your grant.
21. Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, state, tribal, or local agency having jurisdiction over the land, resource, or hazardous material.
22. Comply with all liability and indemnification provisions and stipulations in the grant.
23. As BLM directs, provide diagrams or maps showing the location of any constructed facility.
24. Comply with all other stipulations that BLM may require.
25. Conditions of Approval to Protect Cultural Values

If cultural resources are discovered or unearthed during operations, activity in the vicinity of the cultural resource will cease and a BLM representative will be notified immediately. Cultural resources consist of stone tools, arrowheads, ceramics, structures, tin cans, bottles, glass, bone, buried charcoal, and other prehistoric or historic materials. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures that are made by the authorized officer (BLM).

Pursuant to 43 C.F.R. 10.4 the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, the project

leader/operator/permittee/etc. must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

The project leader/operator/permittee/etc. is responsible for informing all persons associated with this project that they will be subject to prosecution for knowingly disturbing Native American Indian shrines, historic and prehistoric archeological sites, or for collecting artifacts of any kind, including historic items and/or arrowheads from Federal lands pursuant to the 1906 American Antiquities Act (P.L. 59-209; 34 Stat. 225; 16 U.S.C. 432, 433), the Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 U.S.C. 470ee as amended), and/or other federal laws.

26. Wildlife

For activities that may disturb nesting bald and golden eagles use the U.S. Fish and Wildlife Service Bald Eagle Management Guidelines to minimize disturbance. Seasonal restriction period would occur from Jan 1- August 31. These guidelines can be found at the following web site; <http://www.fws.gov/pacific/eagle/NationalBaldEagleManagementGuidelines.pdf>

For all other raptors use the latest information of the critical nesting period for the raptor species and implement seasonal restrictions from human caused disturbance that may result in nest failure or abandonment.

27. The Lessee or Right-of-Way (ROW) Holder shall post the lease or ROW Serial Number on all structures authorized by the lease or grant where practical.

28. Weeds

Implementing Best Management Practices (BMPs) as defined in Appendix D of the RMP (pages D1-D46) and Project Design Features (PDFs) (D-1, Appendix D, RMP) will be used to reduce or avoid the risk of introducing and/or spreading noxious weeds into the Project Area and include, but are not limited to the following:

Pressure wash vehicles and equipment that will travel off system roads prior to entry onto BLM-managed lands. This will remove loose seeds, grease, plant parts, and dirt that may contain viable noxious weed seeds, thereby reducing potential introduction of new noxious weeds into the project area and into newly disturbed sites. If the job site includes a noxious weed infestation, require cleaning of all logging and construction equipment and vehicles prior to leaving the job site.

Monitor the project area 1-3 years post implementation and treat noxious weeds as detected in areas that were disturbed by project implementation.

Road graders used for road construction or maintenance will grade *towards* any known noxious weed infestations. If no good turn around area exists within one half mile that would allow the operator to grade towards the noxious weed infestation, then the operator will leave the material that is being moved within the boundaries of the noxious weed infestation. No noxious weed contaminated soil will be translocated in order to contain the infestation and prevent further spread.

Any herbicides used must be approved by the authorized officer prior to use.

Identify and use weed-free staging areas and minimizing travel and disturbance within weed infested areas.

These preventative measures are recommended in the action plan developed by the western states BLM weed coordinators, with review and input by 30 individuals from agricultural research services, state agencies, universities, weed societies, and weed advisory councils with backgrounds in weed prevention and control (Bureau of Land Management 1996, 35-40).

29. During the closure period (winter and spring), user will only use the road when it is frozen or dry and will not use the road wet conditions. If the road is damaged by holder, holder will be required to pay for road maintenance and/or make adequate repairs to road surface and drainage features. This is necessary to keep roads in satisfactory condition, prevent excessive erosion, and to protect the road from winter and spring road use damage. Except in emergency situations, grantor may suspend the use of roads during periods when the forests are closed by lawful authority. Grantor may also suspend the use of such roads when, due to weather conditions, unrestricted use would cause excessive damage to the roads.
30. You are required to contact the Authorized Officer in the event of a name change or address change.
31. You are required to contact the Authorized Officer in writing 180 days prior to the expiration of this grant for renewal or relinquishment procedures.
32. Right-of-Way area shall be free of debris and vegetation will be kept clear of the building within a 30 foot radius
33. RS 4767.625 requires that every person conducting an operation inside or within one-eighth mile of forest protection district that uses fire in any form or power driven machinery (50 cubic inch displacement engine or larger) shall first obtain a Permit to Operate Power Driven Machinery from the Klamath Lake District Oregon Department of Forestry. Operators must also comply with current fire restrictions based on current industrial fire precaution levels identified by Oregon Department of Forestry.

OR66380 - Green Diamond / Willow Valley and Mainhaul Rds ROW

— Rights of Way
 Bureau of Land Management
 U.S. Forest Service
 Other Federal
 Private/Unknown


 1:68,927



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