

UNITED STATES OF AMERICA
DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
MEDFORD DISTRICT OFFICE

**CATEGORICAL EXCLUSION DOCUMENTATION &
DECISION RECORD**

**Roland and Doris Bleitz
R/W Grant Application OR 65719
NEPA #: DOI-BLM-OR-M070-2009-0014-CX**

I. PROPOSED ACTION:

The proposed action is to issue Right-of-Way Grant OR 65719 under the provisions at 43 CFR Part 2800, and Title V of P.L. 94-579; 90 Stat 2743 to Roland and Doris Bleitz for use of BLM Road 35-5-21.1, and an adjacent un-numbered spur road near Winona and Morris Creek Roads in Josephine County, Oregon. The right-of-way is for residential access (ingress/egress) only. Both roads are existing roads. The spur road is a natural surface road in good condition maintained by Greg Doss who also has access over the same route under OR 51454. The width of the road right-of-way is estimated to be 14 feet wide and 180 feet long and contains approximately 0.6 acres. If authorized, the term for this right-of-way grant would be thirty (30) years. The proposed right-of-way is located as follows:

SW¼ NE¼ Section 21,
Township 35 South, Range 5 West, W.M.,
Josephine County, Oregon

PROJECT DESIGN FEATURES

The project design features described below would be included in the Right-of-Way Grant as stipulations. Additional stipulations may be included in the Grant as necessary to comply with law or policy.

A. The grant holder shall:

1. Conduct and be solely responsible for all construction and maintenance concerning the use of this authorization at the Holder's cost in a good and workmanlike manner so as to ensure protection of the environment and health and safety of the public.
2. Notify the Authorized Officer of his intended use of any mechanized equipment for the maintenance authorized through this grant fourteen (14) days prior to its intended use, the date it is to commence, and the delegated representative of the Holder. Such delegated representative is the person who is authorized by the Holder to carry out the terms and conditions of the grant and act on behalf of the Holder. The notice of the delegated representative shall include a current mailing address and telephone number.

3. Contact and receive either a permit or notification from the Oregon State Forestry prior to use of mechanized equipment in the maintenance and repair of this right-of-way grant. The Holder and/or his contractor shall comply with all Oregon Department of Forestry and BLM fire restrictions.
4. Immediately stop all operations and notify the BLM upon becoming aware of, encountering, or discovery of any objects or sites of cultural value, such as historical or pre-historical ruins, graves, grave markers, fossils or artifacts, the Grant holder shall immediately suspend all operations in the vicinity of the cultural value and notify the Authorized Officer of the findings. The grant holder's operations may resume at the discovery site upon receipt of written instructions and authorization by the Authorized Officer.
5. Comply with all applicable State and Federal environmental laws, regulations, and standards. The Holder shall also immediately discontinue all construction or other operations under this grant upon receipt of written notice from the Authorized Officer that such operations are in violation of said provisions.
6. Wash all ground disturbing equipment used on BLM lands prior to entering BLM lands to remove any dirt or vegetation that may harbor noxious weed seeds.
7. Notify the Authorized Officer upon discovery of any noxious weed species found on the right-of-way area. If the Authorized officer determines that noxious weeds on the right-of-way area are the result of the grant holder's activity, the grant holder is responsible for immediate control and eradication of the noxious weeds. The grant holder shall consult with, and obtain written approval from, the Authorized Officer for acceptable weed control methods, such as mechanical or chemical, or provide funds to BLM for treatment.
8. Not use dirt roads as access routes when such use would cause severe rutting or erosion, as determined by the Authorized Officer. Use, maintenance, and repair activities shall be suspended on public lands if soil condition warrants, as determined by the Authorized Officer. The Holder shall repair any environmental damage resulting from activities associated with this authorization to the satisfaction of the BLM Authorized Officer.
9. Undertake every reasonable measure to minimize erosion to the roads and surrounding areas, soil disturbances and turbidity to waterways, ground disturbing activity or the introduction of invasive plants.
10. Promptly remove and dispose of all waste caused by their activities. The term "waste" as used herein means all discarded matter including, but not limited to human waste, trash, garbage, refuse, petroleum products, ashes, equipment and vegetative materials.

11. Repair any environmental damage resulting from activities associated with this authorization to the satisfaction of the BLM Authorized Officer or his/her representative.

- B. Machinery and/or ground disturbing activity shall be restricted to inside the designated right-of-way.
- C. Work involving soil disturbance shall be performed in the dry season only, which is generally between May 15th and October 15th of any year. Heavy equipment operation and ground disturbing activities are prohibited when soil moisture content exceeds 25% by weight. All equipment shall be washed and inspected for leaks before entering BLM administered lands.
- D. The grant holder may not release any hazardous substances or hazardous wastes (as 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 area. The Right-of-way Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substances or hazardous wastes.
- E. No pesticides (i.e. insecticides, herbicides, fungicides, rodenticides and other similar substances) shall be applied to the right-of-way grant area unless the Holder has written approval from the Authorized Officer.
- F. Natural vegetation shall be cleared or trimmed only when necessary to provide suitable access for operation, maintenance and repair of the system. No tree eight inches (8”) in diameter or greater at breast height shall be cut without prior written approval from the BLM Authorized Officer during the exercise of the rights granted herein.

II. PLAN CONFORMANCE

The proposed action is in conformance with the following plans and decisions:

- a) Record of Decision (ROD) for the Medford District Resource Management Plan (RMP) (2008)
- b) Final EIS for the Revision of the Resource Management Plans of the Western Oregon Bureau of Land Management (2008)
- c) Record of Decision and Resource Management Plan Amendment for Management of Port-Orford-Cedar in Southwest Oregon, Coos Bay, Medford, and Roseburg Districts (May 2004)
- d) Decision Record and Environmental Assessment for the Medford District Integrated Weed Management Plan (April 1998)

The proposed action is in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of

1974 (as amended 1986 and 1996), Clean Air Act, and the Archaeological Resources Protection Act of 1979.

This proposed action is consistent with management objective in the 2008 Medford District Resource Management Plan to “provide needed rights-of-way, permits, leases, and easements over BLM-administered lands in a manner that is consistent with federal and state laws.” (RMP, p. 49).

III. NEPA REVIEW

The Proposed Action qualifies as a categorical exclusion under Department Manual 516 DM 11.9.E(12) and E(16) as follows:

- “Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.” (E(12))
- “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.**” (E(16))

IV. EXTRAORDINARY CIRCUMSTANCES REVIEW

Title 43, Section 46.205(c) of the Code of Federal Regulations (CFR) requires the review of this action to determine if any of the following “extraordinary circumstances” (found at 43 CFR 46.215) would apply. If any of the extraordinary circumstances apply, then an otherwise categorically excluded action would require additional analysis and environmental documentation.

1) *Have significant impacts on public health or safety.*

Yes No

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.*

Yes No Remarks:

3) *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*

Yes No Remarks:

4) *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*

Yes No Remarks:

5) *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*

Yes No Remarks:

6) *Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.*

Yes No Remarks:

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.*

Yes No Remarks:

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.*

Yes No Remarks:

9) *Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.*

Yes No Remarks:

10) *Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).*

Yes No Remarks:

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).*

Yes No Remarks:

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).*

Yes No Remarks: PDF's require grant holder to wash ground disturbing equipment, to report discovery of weed sites in ROW, and to eradicate weeds when the Authorized Officer determines the weeds are a result of the grant holder's actions.

V. CONTACT PERSON

For additional information concerning this project, contact Leslie Voelkel, Project Lead, at (541) 618-2217.

Reviewers:

| | | | |
|---|-------------------------|---|-----------------------|
| <u>Concepcion Fran</u> Silviculture, Vegetation Dynamics, & Port-Orford Cedar | <u>2/9/2009</u> Date | <u>Yvonne Riey</u> Wildlife | <u>2/9/09</u> Date |
| <u>Robin M. Sisk-Davenport</u> Botany | <u>2/9/2009</u> Date | <u>Michael D. Byles</u> Soils/Hydrology | <u>2/9/09</u> Date |
| <u>Jacob Breen</u> Cultural Resources | <u>2/9/2009</u> Date | <u>J. Miller</u> Visual Resources / Recreation | <u>2/9/09</u> Date |
| <u>Jon R. Breen</u> Fisheries | <u>2/9/09</u> Date | <u>James R. Poyser</u> Engineering | <u>2/9/09</u> Date |
| <u>Justin</u> Fire and Fuels | <u>2/9/09</u> Date | | |

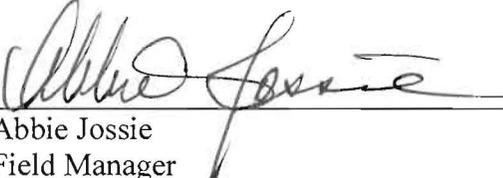
Leslie Voelkel 01-22-2009
Prepared by Date

Jared C. Nichol 2/10/2009
NEPA Reviewed by Date
Jared Nichol
Planning and Environmental Coordinator

DECISION

I have reviewed this Categorical Exclusion Documentation, including the plan conformance, NEPA compliance review, and extraordinary circumstances review, and have determined the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required.

It is my decision to implement the action as described and approve Right-of-Way Grant OR 65719 to Roland and Doris Bleitz for a thirty (30) year term.



Abbie Jossie
Field Manager
Grants Pass Resources Area

2-10-09

Date

ADMINISTRATIVE REMEDIES:

Administrative review of right-of-way decisions requiring National Environmental Policy Act (NEPA) assessment will be available under 43 CFR Part 4 to those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized would cause injury, and who have established themselves as a “party to the case.” (See 43 CFR § 4.410 (a) – (c)). Other than the applicant/proponent for the right-of-way action, in order to be considered a “party to the case” the person claiming to be adversely affected by the decision must show that they have notified the BLM that they have a “legally cognizable interest” and the decision on appeal has caused or is substantially likely to cause injury to that interest (See 43 CFR § 4.410(d)).

EFFECTIVE DATE OF DECISION

This is a land decision on a right-of-way application. All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal (See 43 CFR § 2801.10) unless the Secretary rules otherwise. Rights-of-Way decisions that remain in effect pending an appeal are considered as “in full force and effective immediately” upon issuance of a decision. **Thus, this decision is now in effect.**

RIGHT OF APPEAL

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a “legally cognizable interest” to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a “party to the case.” (See 43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after the date of service. Only signed hard copies of a notice of appeal that are delivered to the address below will be accepted. Faxed or e-mailed appeals will not be considered.

*BUREAU OF LAND MANAGEMENT
GRANTS PASS INTERAGENCY OFFICE
2164 NE Spalding
Grants Pass, OR 97526*

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for stay of a decision pending appeal shall 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.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor and the Right of Way applicant (Roland and Doris Bleitz) at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations. 43 CFR § 4.413(a). At the end of your notice of appeal you must sign a certification that service has been or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413) and specify the date and manner of such service.

The IBLA will review any petition for a stay and may grant or deny the stay. If the IBLA takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until IBLA makes a final ruling on the case.

HOW TO FILE AN APPEAL

See the attached Form 1842-1 for complete instructions on Filing an Appeal

CONTACT INFORMATION

For additional information contact:

Abbie Jossie, Field Manager, Grants Pass Resource Area
Grants Pass Interagency Office
Bureau of Land Management
2164 NE Spalding
Grants Pass, OR 97526
(541) 618-6500
Or Jared Nichol (Grants Pass Environmental Planner, Detail) at (541) 471-6645

Additional contact addresses include:

- U.S. Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy Street, MS 300-QC

Arlington, Virginia 22203

- Office of the Regional Solicitor
Pacific Northwest Region
U.S. Department of the Interior
805 SW Broadway, Suite 600
Portland, OR 97205
- Roland and Doris Bleitz
29084 Poppy Meadow Street
Canyon Country, CA 91387

Attachments:
Form 1842-1
Exhibit A Map
Photos

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

| | |
|----------------------------------|--|
| 1. NOTICE OF APPEAL | A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413). |
| <hr/> | |
| 2. WHERE TO FILE | |
| NOTICE OF APPEAL..... | U.S. Department of the Interior, Bureau of Land Management Grants Pass Interagency Office 2164 NE Spalding Grants Pass, OR 97526 |
| WITH COPY TO SOLICITOR... | U.S. Department of the Interior Office of the Regional Solicitor, Pacific Northwest Region 805 S.W. Broadway, Suite 600 Portland, OR 97205 |
| <hr/> | |
| 3. STATEMENT OF REASONS | Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413). |
| WITH COPY TO SOLICITOR..... | U.S. Department of the Interior Office of the Regional Solicitor, Pacific Northwest Region 805 S.W. Broadway, Suite 600 Portland, OR 9720 |
| <hr/> | |
| 4. ADVERSE PARTIES | Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). |
| <hr/> | |
| 5. PROOF OF SERVICE | Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)). |
| <hr/> | |
| 6. REQUEST FOR STAY | Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> 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 appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall 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. |

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

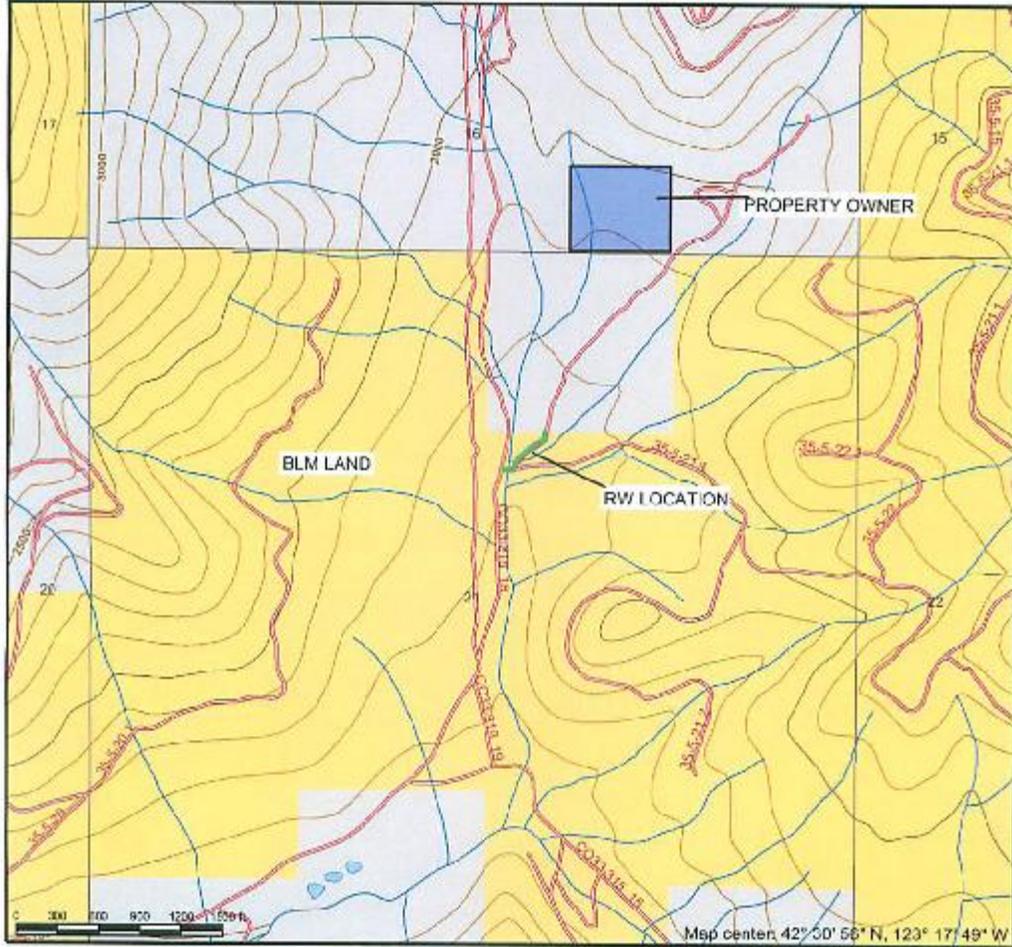
- Alaska State Office ----- Alaska
- Arizona State Office ----- Arizona
- California State Office ----- California
- Colorado State Office ----- Colorado
- Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
- Idaho State Office ----- Idaho
- Montana State Office ----- Montana, North Dakota and South Dakota
- Nevada State Office ----- Nevada
- New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
- Oregon State Office ----- Oregon and Washington
- Utah State Office ----- Utah
- Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)

Bleitz, OR 065719 EXHIBIT A

T35S- R5W Sec21



- | | | |
|-----------------------------|----------|----------|
| Forest Operations Inventory | Non BLM | Highways |
| TPCC | Lakes | Roads |
| Township and Range | Streams | Trails |
| Sections | Wetlands | |

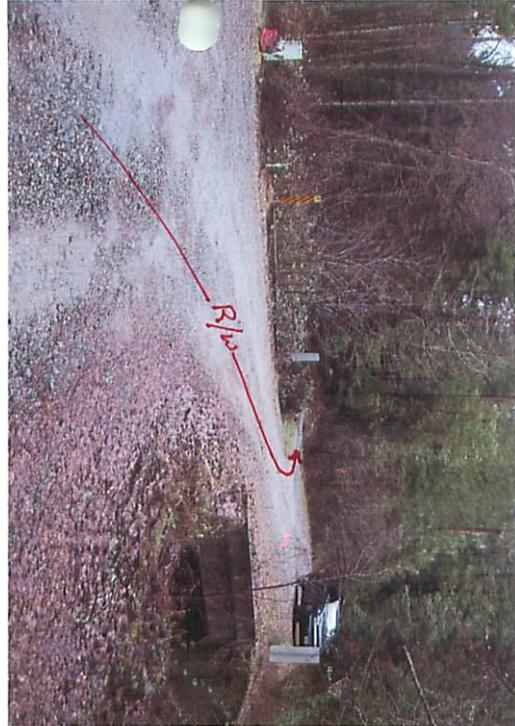
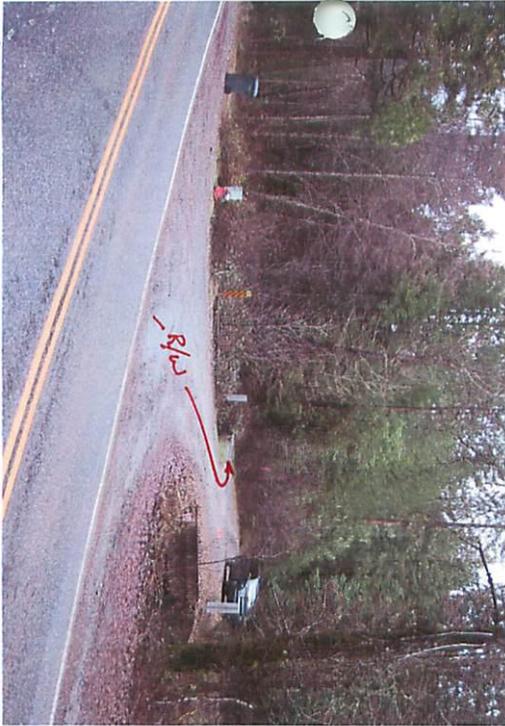


Internal Use Only

 United States Department of the Interior
Bureau of Land Management
Medford District Office
3040 Biddle Road
Medford, OR 97504

Printed: Oct 24, 2008 10:46:53 AM
http://web.maps.or.blm.gov/foi_section

Scale 1:12,000
Universal Transverse Mercator
Zone 10, North American Datum of 1983



OR 65719 Bleitz
1-5-09