

## Decision Record

**NEPA Register Number:** DOI-BLM-OR-056-07-013 -EA

**Title of Action:** RMG Development, Inc. Right-of-Way (ROW)

**Serial Case File Number:** OR 63790

**BLM Office:** Prineville District, Deschutes Resource Area, Prineville, Oregon

### 1. Compliance

The project has been reviewed and found to be in conformance with, the Upper Deschutes Record of Decision and Resource Management Plan, September 2005. The Bureau of Land Management (BLM) completed a Cultural Resources Inventory Report and the report was concurred by the Oregon State Historic Preservation Office.

Right-of-way grants for access and utilities will be monitored to ensure that development is consistent with the terms and conditions of the grants. A prework conference will be conducted with RMG Development, Inc. that may include the following entities depending on the segment of road that is being constructed: BLM, Bonneville Power Administration, Oregon Military Department, Crook County Road Department, Central Oregon Irrigation District and others to discuss the stipulations of the grants and plans for construction. BLM personnel will perform monitoring during and after construction.

The right-of-way grants will contain terms and conditions requiring compliance with environmental quality standards pursuant to Federal, State or Crook County law. Such terms and conditions are intended to provide efficient management of the lands subject to the right-of-way grants and to protect the interest of individuals living in the area as well as the public interest in Federal lands.

#### **Terms / Conditions / Stipulations:**

- a. This access grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed by the Holder from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. The right-of-way granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The map set forth in Exhibit A, attached hereto, is incorporated into and made a part of this grant instrument as fully and effectively as if it were set forth herein in its entirety.

- e. Failure of the Holder to comply with applicable law or any provision of this right-of-way grant shall constitute grounds for suspension or termination thereof.
- f. The Holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- g. Prior to any construction activities, the Holder shall conduct site testing on the 13 sites recommended for evaluation in the cultural resources inventory report, concurred with the Oregon State Historic Preservation Office (SHPO, 11/16/09). The Holder must submit a site testing proposal to BLM, SHPO, and the appropriate American Indian Tribe for our approvals. Only after the proposal has been implemented and a report of the results submitted to and concurred with by both the BLM and SHPO will construction activities be allowed to proceed.
- h. Any human remains, cultural and/or paleontological resource (historic or prehistoric or vertebrate fossil site or object) discovered by the Holder, or any person working on his behalf, on public or Federal land shall be immediately reported by telephone to the authorized officer. The 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 regarding proper mitigation measures that will be made by the authorized officer after consulting with the Holder. In some cases it may be necessary to suspend authorized operations in the area of the discovery for as much as 30 days.
- i. In the event the Holder sells the property the Holder is responsible for completing an assignment to transfer this authorization to the new landowner.
- j. The Holder shall assist BLM with developing and managing recreational trails on BLM.
- k. The Holder shall improve the health of old growth juniper woodlands and shrub-steppe habitats by thinning and removing young juniper trees, managing weeds and seeding on 1956 acres. At a cost of \$200/acre to manage these habitats it would cost \$391,200.00.
- l. The Holder shall provide ½ to 1 mile wide wildlife connectivity corridor connecting BLM administered lands from the Millican Plateau to the Mayfield Pond Geographic Areas. The corridor must be undeveloped and facilitate the travel movements of wildlife such as deer, elk, pronghorn, carnivores, small mammals and reptiles. Purchasing private lands or conservation easements on private lands are example of ways to secure rights to manage private lands (cost unknown).

## **Construction**

- m. The Holder shall obtain the services of a licensed professional engineer to locate, survey, design, and construct the ROW corridors as directed by the authorized officer. The road design shall be based on the (1) width, (2) maximum grade, and (3) design speed of the road. BLM shall approve the road design prior to any construction activity.
- n. The Holder shall mark the exterior boundaries of the right-of-way with a stake and/or lath. The intervals may be varied at the time of staking at the discretion of the authorized officer; however the previous stake and/or lath must be within sight distance. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the holder. The survey station numbers will be marked on the boundary stakes and/or laths at the entrance to and the exit from public land. Holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed and approved by the authorized officer. The stakes and/or laths will then be removed at the direction of the authorized officer.
- o. The Holder will construct the road to meet the approved standards as described in the engineered construction plan submitted to and approved by the appropriate road jurisdiction, BLM and/or Crook County Road Department.
- p. The Holder shall conduct a prework meeting with all affected parties on the ground prior to any construction activity occurring.
- q. 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.
- r. The Holder will construct the road to meet the Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT  $\leq$  400) and Crook County Rural Collector Road Standards, which includes a paved 32 foot width to accommodate bike lanes.
- s. During construction the Holder will attempt to imitate natural forms found in the landscape.
- t. During construction of the access road, the Holder shall adhere to the basic fire safety rules as specified in the Central Oregon Fire Management Safety regulations.
- u. During the construction of the road the Holder shall camouflage user created roads in existence within 20 feet adjacent to the fence outside the ROW with large rock and rehabilitated vegetation. These roads would be identified by BLM in the pre-work conference.
- v. The Holder shall wash all construction equipment prior to entering BLM managed public land to prevent the spread of weeds.

- w. The Holder shall use weed-free surface and fill material if additional is needed.
- x. The Holder shall cover all construction holes left open over night. Covers shall be secured in place and shall be strong enough to prevent humans, livestock, or wildlife from falling through and into a hole.
- y. The Holder shall maintain construction sites in a sanitary condition at all times: waste materials at those sites will be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded material including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.
- z. The Holder shall implement a litter-policing program, approved in writing by BLM.
- aa. The Holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. The Holder 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 ROW.
- bb. The Holder shall be required to report any release of toxic substances (leaks, spills, etc) in excess of reportable quantity established by 40 CFR, part 117 as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. 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 will be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
- cc. The Holder may blast from February 1 through August 31 (limits due to wildlife nesting season), if necessary for the corridor. However, any disturbance from the blasting would be kept within the parameters of the corridor. Powder magazines and explosives shall be stored and handled according to U.S. Bureau of Alcohol, Tobacco and Firearms standards. As required by ATF, loaded shot holes shall not be left unsecured.
- dd. The Holder shall install culverts and/or lateral ditches as directed by the authorized officer. The size of the culvert must be able to withstand a 100 year flood event and will be approved by the authorized officer.
- ee. The Holder shall be responsible for rehabilitating 4 miles of user created roads. Access points located adjacent to RMG Development and BLM properties shall be closed, except those authorized by BLM. Other roads would be negotiated between RMG and BLM.

### **Vegetation**

- ff. The Holder shall mark all trees to be removed with flagging and obtain BLM's approval prior to cutting operations.

- gg. The Holder shall cut the trees down to a stump height of no more than 8 inches or less, for any trees that would not be grubbed out. Trees less than 6 inches in diameter and cut limbs and tops would be either chipped or lopped and scattered on BLM land within or adjacent to the ROW such that no hazardous fuel concentrations remain and resulting slash depth does not exceed 8 inches. If chipping is used for slash disposal, chips would be blown away from the road prism perpendicular to the road within or immediately adjacent to the ROW. Any slash or chips falling on the road bed or ditches would be cleared out. All snags or trees with potential nest cavities will be left if possible. Following reseeded, all cut trees will be scattered on disturbed BLM managed land within the ROW or other areas approved by BLM.
- hh. The Holder shall retain all old-growth juniper snags and juniper with cavities, if possible. These trees would be identified during the pre-work conference.
- ii. The Holder shall seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the second growing season. The Holder shall use the following seed mixture or another mixture approved by BLM;
  - 40% western wheatgrass,
  - 30% blue bunch wheatgrass, and
  - 30% bottlebrush squirrel tail

All seed mixtures will be 100% pure live seed and certified weed-free. The holder will provide BLM with a seed testing report prior to planting any seed
- jj. The Holder shall reseed disturbed areas as soon as possible between the established time frames of October 1st and February 1<sup>st</sup> unless hydro seeding.
- kk. The Holder shall suppress noxious weeds according to BLM standards for noxious weed suppression for a period of three years following construction. If noxious weeds are sprayed, they must be completed by a licensed (with the State of Oregon) applicator using herbicides at an application rate approved by BLM.
- ll. The Holder shall also suppress invasive weeds according to BLM standards for weed suppression for a period of three years following construction. If invasive weeds are sprayed, they must be completed by a licensed (with the State of Oregon) applicator using herbicides at an application rate approved by BLM.

### **Fencing and Signs**

- mm. The Holder is responsible to install and maintain a fence on both sides of the access road to BLM specifications. The fence would be either wood or wire at the discretion of BLM.

- nn. The Holder shall install and maintain cattle guards, 14 foot or wider, to BLM's specifications in allotment access roads which intersect allotment and pasture boundaries, prior to the next authorized grazing period. The holder would repair and maintain cattle guards as needed, or upon request by the authorized officer. The Holder shall also install a gate next to each cattle guard, approved by BLM.
- oo. The Holder would block specified vehicle access points approved by BLM prior to blockage.
- pp. The Holder shall fence and maintain the fence on the corridor's exterior boundaries. The fence will be built according to BLM standards.
- qq. The Holder shall install and maintain signs on the fencing directing the public to the next gated entrance or exit to cross the roadway and which state, "Patrols of the Area Occur", "No Dumping" and " Watch for Livestock on the Road" or signs otherwise approved by BLM.
- rr. The Holder shall install informational bulletin boards at the entrance of the paved access road and the resort exit onto the paved access road, as approved by BLM. The holder shall also install informational bulletin boards, approved by BLM, at the entrance of the two access roads.
- ss. The Holder shall install and maintain speed signs which state that the speed limit will be established and enforced.

## **2. Selected Alternative**

It is my decision to grant a right-of-way (ROW) corridor to RMG Development, Inc. that is similar to the proposed action under Environmental Assessment (EA) Number DOI-BLM-OR-056-07-013-EA. The ROW corridor will entail road access, foot, bike and/or equestrian trails, either aerial or underground electrical transmission or distribution lines, buried natural gas, water, and sewer pipelines, underground or aerial fiber optic cable and telephone lines, and any other utilities. Central Electric Cooperative, Cascade Natural Gas and other utilities are required to apply for their own ROW in the ROW corridor. If the utility companies propose an action outside the ROW corridor, an additional National Environmental Policy Act (NEPA) document could be required.

It is also my decision not to allow the placement of the entry signs as described in the proposed action. Entry signs can be placed in the ROW corridor; however, they must follow the county and state rules for information signs. The entry signs would not be lighted. The State and County have standard signage, designed for intersections on State or County roadways that would fulfill the needs of the resort. The sign panel would have a blue background with a white reflector border and message, according to State and County regulations. Other signs may be placed in the ROW corridor segments with prior approval from BLM.

The ROW corridor involves four segments; Alfalfa/Johnson Market, Millican, North-South roads, and Central Oregon Irrigation. The corridor for Alfalfa/Johnson Market Road is 100 feet wide by 4,320 feet length, encompassing 9.91 acres. The corridor for Millican Road is 100 feet wide by 5,495 feet in length, encompassing 12.61 acres. The corridor for the North-South Road is 80 feet wide by 5,000 feet in length, encompassing 9.18 acres. The corridor for the Central Oregon Irrigation is 30 feet wide by 2,200 feet in length, encompassing 1.52 acres. See the attached map.

The proposed action is located in Crook and Deschutes counties and is described as follows:

T. 16 S., R. 14 E.,

Section 24, SW1/4,  
Section 25 E1/2,  
Section 34, SE1/4,  
Section 35, S1/2N1/2,  
Section 36, N1/2NW1/4, SW1/4NW1/4,

T. 16 S., R. 15 E.,

Section 27, W1/2,  
Section 28, SE1/4,  
Section 33, NE1/4

T. 17 S., R. 15 E.,

Section 3, N1/2NE1/4,

Willamette Meridian, Oregon

### **3. FONSI Reference**

Based upon review of the EA and supporting documents, I have determined that the project is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and do not exceed effects described in the Upper Deschutes RMP/FEIS. Therefore, an environmental impact statement is not needed. The FONSI was signed on December 5, 2006 and is attached.

### **4. Public Involvement**

We received correspondence from the: Confederated Tribes of Warm Springs, Oregon Department of Fish and Wildlife (ODF&W), REC Connect, and one private individual. Comments that are normal procedures or outside the scope of the EA were not addressed. Opinions and comments unrelated to the decision at hand were not analyzed. A summary of the substantive comments and our responses are summarized on the following 4 pages.

1. **Comment:** It is vitally important that these resorts clearly plan cooperatively with BLM and the user communities, if their building and planning efforts will conceivably affect usage of the surrounding public land.

**Response:** During negotiations for a Right-of-Way (ROW) Grant across BLM managed public land, BLM has observed a cooperative and respectful approach by RMG regarding different uses on public lands, including Off-Highway Vehicle and a willingness to avoid conflicts with these uses.

2. **Comment:** The RMG ROW should not impact trail miles already planned, for Millican Plateau. If the trail expansion has already happened, I seriously doubt BLM would then not grant RMG Development/Hidden Canyon Resort a ROW for access to their property.

**Response:** The RMG ROW is located in the very northeastern portion of public lands west of the Millican Road. Almost all proposed roads and trails on these public lands will not conflict with this ROW. BLM will not designate an existing road that extends north of the ROW as part of the Millican Plateau OHV Trail System, to minimize potential effects on OHV rider and public user safety.

BLM plans to designate trails on public lands primarily west of the Millican Road. BLM has focused on providing a diversity of OHV riding opportunities for users, while minimizing potential conflicts and rider safety between OHV users and vehicle traffic to the Hidden Canyon Resort.

3. **Comment:** If the developers want to add additional paved roads, my concern is the UDRMP decision to expand the Millican Plateau riding area. The Millican Plateau is used very heavily in the winter by OHVs and the need was addressed and it was agreed through the Plan that the area would be expanded. If in the EA process, we could identify unneeded roads and get rid of them we should be able to add the promised trail miles to the Millican Plateau System. We also will need trail crossings on Millican Highway.

**Response:** As BLM implements the western portion of the Millican Plateau OHV Trail System it may identify some roads that are not necessary and could be closed. BLM will use the existing two OHV trail crossings north of the Four Corners intersection and may add an additional crossing if agreeable with the Crook County Road Department.

4. **Comment:** BLM identified the Millican Plateau area as an area where the BLM would develop additional mileage of OHV trails. Additional miles of ROW roads in Millican Plateau will make it harder to develop trails in the future, because BLM will have to reduce the density of road and trails to achieve wildlife management goals. BLM needs to consider what the impact of additional miles of permanent road would take away from the trail system, both as a result of this EA and other projects/decisions BLM is making in the Millican Plateau.

**Response:** In the UDRMP, on page 123, states, "The goal of OHV trail system is to provide diverse OHV opportunities by creating new trails and play areas and to provide trail

opportunities when the seasonal and trail density restrictions in North Millican and South Millican area are in effect.” Again, in the UDRMP, on page 135, states, “BLM administered lands will continue to be available for rights-of-way, including multiple use and single use utility/transportation corridors, following existing routes and road.” The access road that RMG has applied for generally follows existing routes.

Although the Millican Plateau area is mostly in a general wildlife emphasis area, according to the UDRMP (Objective W-4c, page 56), there is not a target for road density to achieve wildlife management goals. There are 1.7 miles of ROW within a secondary wildlife emphasis area. See map 4 in the UDRMP. According to the UDRMP, on page 56, Objective W-4b, states, “Target low to moderate densities of open motorized travel routes (approximately less than or equal to 2.5 mi/2 mi).

Authorizing approximately four miles of ROW road to RMG would not reduce the existing 74 miles of Class III/I or 37 miles of Class I/II/III trails/routes in the Millican Plateau OHV Trail System. The potential loss of four additional miles of OHV trails/routes would represent a loss of less than one half of one percent of the total available trail/route miles for OHV use, if four miles of new Class I/II/or III trails/routes were built, rather than authorizing four miles of existing road for the proposed RMG resort. BLM will consider the effects of other future ROW requests and projects in this area to minimize loss of future OHV trails/routes.

**5. Comment:** The ODF&W is concerned with the northern BLM access route and utility ROW as it is less than a quarter mile from an eagle nest. This site appears to be on BLM land, and ODF&W wants any access to avoid impacts to the nest to meet the guidelines of the Bald and Golden Eagle Act, ODF&W’s Habitat Mitigation Policy, and BLM’s Upper Deschutes Resource Management Plan (UDRMP).

**Response:** This comment was made before the eagle nest location was verified. Subsequently ODFW located the golden eagle nest 0.8 miles west of the proposed ROW. The UDRMP (2005) wildlife guidelines (page 47) recommends locating human activities at least ¼ to ½ mile away from golden eagle nest sites. The ODFW guidance is to locate human disturbances at least ¼ mile away from eagle nests. Locating a road 0.8 miles away from a golden eagle nest would be consistent with the UDRMP, ODFW guidelines and the Bald and Golden Eagle Protection Act (avoid harm).

**6. Comment:** BLM lands adjoining this destination resort (DR) were designated “Secondary Wildlife Emphasis” in the UDRMP, and as a pronghorn connectivity corridor. The DR and proposed access roads would bisect this important wildlife habitat. As noted previously ODF&W is concerned for the effects the access roads have on wildlife and habitat effectiveness. Important deer and pronghorn winter range lies on BLM lands along the east side of the planned DR. The Millican OHV Plan and the UDRMP both recognize the importance of this area to wildlife and have provisions to maintain deer and pronghorn winter range values, including their movements through the area.

**Response:** The comment is correct, the western proposed ROW (Alfalfa/Johnson Market Road) would cross through BLM administered lands that are allocated to a Secondary Wildlife

Emphasis under the UDRMP (2005, page 58) to provide a connectivity route from the Millican Plateau Area to the Mayfield Pond Area. Additionally, the proposed Millican Road ROW is located in deer and pronghorn winter range, which was allocated to a General Wildlife Emphasis. The negative effects to wildlife in these areas are described on page 15 in the Environmental Consequences section of the Environmental Assessment (Number OR-056-07-013). For example, the proposed action would remove 21 acres of habitat; increase human activities which could decrease wildlife use; and add fencing that could create barriers for wildlife within the pronghorn connectivity corridor.

In order to address the wildlife concerns (and other resource management programs) and mitigate negative effects from the proposed travel route and related activities (e.g., habitat conversion and fencing, etc.), BLM entered into a Memorandum of Understanding (MOU) with RMG Development, Incorporated. Pages two and three of the MOU have eight items that directly address the wildlife concerns. For Example, item 1) states “RMG will contribute to improving the health of old growth juniper woodlands and shrub-steppe habitats by thinning and removing young juniper trees, managing weeds and seeding on public lands”, 2) RMG will provide ½ to 1 full mile wide corridor for wildlife connectivity to connect BLM administered lands from the Millican Plateau Area to the Mayfield Pond Area; 4) RMG will rehabilitate roads identified by BLM to decrease habitat fragmentation; and 5) RMG Will fence using wildlife friendly standards. The wildlife habitat mitigation plan developed by RMG, Inc. and approved by ODF&W included (page 3) actions to minimize vehicle traffic along the ROW going to Millican road between December 1<sup>st</sup> and March 31<sup>st</sup> to minimize negative effects to wintering deer and pronghorn.

7. **Comment:** ODF&W recommends BLM access routes and associated intersections or road improvements be done in a manner that maintains deer and pronghorn habitat effectiveness and their movement patterns, and that it is consistent with the management direction in the Millican OHV Plan and UDRMP. ODF&W urges BLM to require mitigation from the developer that offsets adverse impacts. Requirements could include:

1. Avoid deer and pronghorn travel corridors and crossings for DR access routes or intersections.
2. Determine deer and pronghorn mortality (from vehicles) through BLM winter range lands along Millican Highway and access routes through BLM lands. Describe how future mortality will be prevented/mitigated.
3. Permanent enforcement presence funded partially or entirely by developer to control access problems and activities associated with general public use as noted previously.
4. Have developer fund projects on adjacent BLM lands to obtain desired UDRMP wildlife habitat objectives.

**Response:** The BLM recognizes these issues and addressed them by requiring mitigation of the project proponent. As stated earlier, RMG Development, Inc. signed an MOU with the BLM to address wildlife concerns and mitigate negative effects from the proposed ROWs. Item one above was specifically addressed in the MOU requiring the project proponent to provide a ½ to one full mile wide corridor for wildlife to connect BLM administered lands from the Millican Plateau Area to the Mayfield Pond Area (Page 3, No. 2). The MOU also addressed items three

and four listed above. However, the MOU only identified law enforcement support for approximately 20 years (during the development period), and not permanent as requested by ODFW. The concern identified in item 2 is addressed in the Wildlife Mitigation Plan required by the Crook County Planning process, which had involvement and approval by ODFW and review and agreement with BLM on elements involving public lands managed by BLM. Specific items in Wildlife Mitigation Plan include:

- RMG will thin invasive juniper and thin trees within the easterly BLM right-of-way to increase visibility for drivers and reduce the potential for collisions with deer and pronghorn;
- RMG shall limit access on the easterly Becker Road, between the resort and Millican Road, between December 1<sup>st</sup> and March 31<sup>st</sup>;
- RMG shall provide signage along the easterly Becker Road access, between the resort and Millican Road, to note deer and pronghorn use and seasonal use restriction.

8. **Comment:** The ODF&W questions how the BLM can approve a ROW route through an area designated to a secondary wildlife emphasis and located in close proximity to the Power Butte RNA/ACEC and be consistent with the UDRMP. The UDRMP also designates this area as “Non Recreational Emphasis.” ODF&W prefers an alternative route which avoids impacts to the eagle nest, wildlife habitat and the RNA/ACEC.

**Response:** The UDRMP (Objective W-4d, page 56) recognizes there will be situations where the BLM will be limited in its ability to effectively manage public lands because of a fragmented landownership pattern. In these situations, the UDRMP directs the management of public lands for wildlife to the extent practicable within jurisdictional limitations. The BLM District Engineer assessed the area (e.g., topography, rocky outcrops) and determined that the proposed route on BLM was the only suitable location to access the northern portion of the proposed DR property. In order to mitigate for locating a road in this area the proponent entered into an MOU with BLM agreeing eight specific actions to maintain or improve habitat conditions. Also, under section II. Terms of Agreement in the MOU (page 2) RMG, Inc. agreed to fence the remaining portion of the ACEC/RNA that is not currently fenced. The proposed action does not direct use toward the ACEC/RNA.

## 5. Rationale for the Decision

The need for this proposed action is to respond to RMG’s application for ROW corridors to their private property. The corridors will be used year round for a future resort located in the Powell Buttes area.

The ROW corridors would provide RMG with legal access across BLM managed public land to their private land. It would also allow for the reasonable and enjoyable uses (BLM Manual 2800.06 (D)) of RMG’s private land while complying with the Upper Deschutes Record of Decision and Resource Management Plan (UDROD & RMP).

The proposed action is consistent with the following objectives from the UDROD & RMP, pages 135-140:

- Objective TU-1: Provide new or modified rights-of-way for transportation/utility corridors and communication/energy sites to meet expected demands and minimize environmental impacts.
- Objective TU-2: Provide an integrated, functional, safe, efficient, transportation system that:
  - Supports approved land uses that cannot be met on private, state, or county lands,
  - Provides links between local communities,
  - Reduces or minimizes conflicts with adjacent landowners,
  - Supports approved common guidelines of joint jurisdictions, and
  - Balances public access needs with resource protection,
- Objective TU-3: During the design and application process for proposed new or expanded rights-of-way, incorporate mitigating measures in the plan of development for land restoration, habitat improvement, recreation opportunities, and visual resources.
- Objective TU-4: Identify and develop a long-term transportation system for military training use that meets special training objectives, maximizes benefits to other users, including recreation use of public lands, and minimizes impact to natural resources.
- Objective TU-5: Consolidate transportation and utility systems with consideration for ecological and recreational values, while providing for regional transportation systems and meeting regional objectives.
- Objective TU-6: Provide motorized access to facilitate reasonable entry and operations for administrative purposes.

## **6. Protest and Appeal Opportunities**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (3050 NE Third Street, Prineville, Oregon 97754) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulations 43 CFR 4.21 (request) for a stay (suspension) 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. A petition for a stay is required to show sufficient justification based on the standards listed below. 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 appropriate Office of the Solicitor (see 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 regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

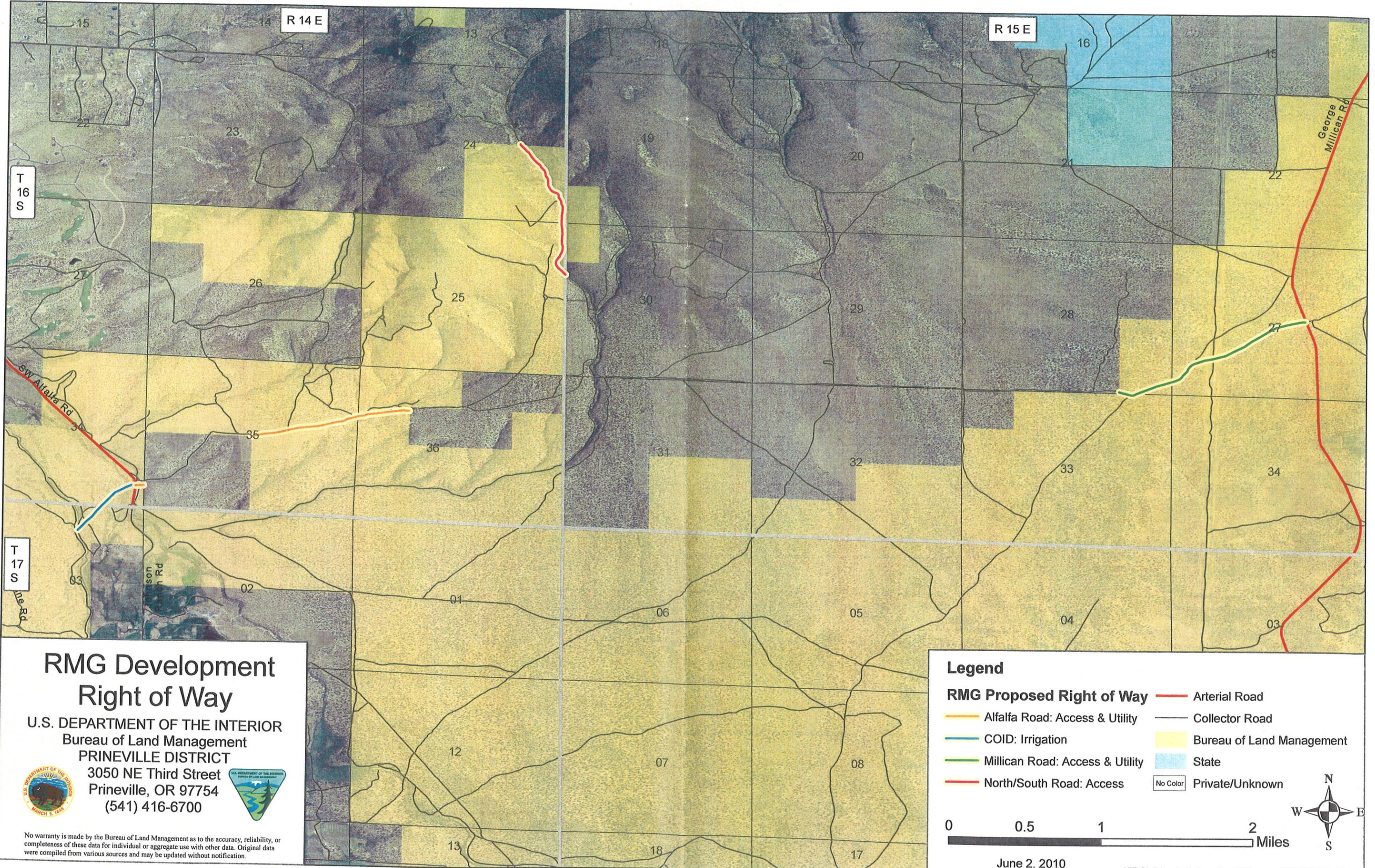
- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Please note, however, that under the regulations in 43 CFR Group 2800, this decision is effective even if an appeal is filed.

/S/ Molly Brown  
Molly Brown  
Field Manager, Deschutes Resource Area

06/07/10  
Date

Attachments: Map and Form 1842-1



# RMG Development Right of Way

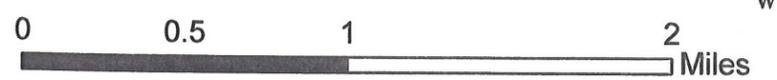
U.S. DEPARTMENT OF THE INTERIOR  
Bureau of Land Management  
PRINEVILLE DISTRICT  
3050 NE Third Street  
Prineville, OR 97754  
(541) 416-6700



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources and may be updated without notification.

## Legend

- |                                 |                           |
|---------------------------------|---------------------------|
| Arterial Road                   | Collector Road            |
| Alfalfa Road: Access & Utility  | Bureau of Land Management |
| COID: Irrigation                | State                     |
| Millican Road: Access & Utility | Private/Unknown           |
| North/South Road: Access        |                           |



June 2, 2010

MXD: P:\p\gis\projects\lands\specialuses\ROW\_easements\RMG\RMG\_ESMT\_ROW.mxd

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 served with the decision being appealed must transmit the *Notice of Appeal* 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 *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
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- 2. WHERE TO FILE NOTICE OF APPEAL**..... Prineville District Office, 3050 NE Third Street, Prineville, Or 97754
- WITH COPY TO SOLICITOR**..... U.S. Department of the Interior, Office of the Regional Solicitor, 805 SW Broadway, Suite 600  
Portland, OR 97205
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- 3. STATEMENT OF REASONS** Within 30 days after filing the *Notice of Appeal*, 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 *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).
- WITH COPY TO SOLICITOR**.....
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- 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 *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associate Solicitor, Division of Land and Water Resources, Office of the Solicitor, United States Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associate Solicitor, Division of Mineral Resources, Office of the Solicitor, United States Department of the Interior, Washington, D.C. 20240.
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- 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)).
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- 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 *Notice of Appeal* (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 *Notice of Appeal* (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 *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 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 other 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.

## 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.

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(Form 1842-1, September 2005)