

2800 (135)
WAOR-44414

January 12, 2010

CERTIFIED MAIL - Return Receipt No. _____

DECISION

Benton County Parks Department :
7122 West Okanogan Place : Right-of-Way Grant WAOR-44414
Kennewick, WA 99336-2359 :

Right-of-Way Grant Renewal For WAOR-44414 Issued

I have reviewed the documentation for this proposal (DOI-BLM-OR-135-2010-0003-CX), and have determined that authorizing a right-of-way for this use would be categorically excluded from NEPA. Under the authority of Title V of the Federal Land Policy and Management Act of 1976, a right-of-way grant will be issued to Benton County Parks Department approving the renewal of the existing Rattlesnake Mountain Shooting Facility fence. The length of the right-of-way is 6,800 and is 15 feet wide. The total acreage included in the right-of-way is 2.34.

Enclosed is a copy of your executed amended right-of-way grant, serial number WAOR-44414.

The issuance of this right-of-way grant may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 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 (at the above address) within 30 days from receipt of this letter/decision. The appellant has the burden of proof of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 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.

If you have any questions about this decision or the enclosed right-of-way grant, please contact Mark Hatchel, Realty Specialist at (509)536-1211.

/S/ June E. Hues

June E. Hues, Field Manager
Border Resource Area

Enclosures

Categorical Exclusion Documentation

Department of the Interior
Bureau of Land Management, Spokane District
1103 North Fancher Road
Spokane Valley, WA 99212

A. Background

BLM Office: Border Field Office

Lease/Serial/Case File No.: WAOR-44414

NEPA Log Number: OR-135-2010-0003-CX

Proposed Action Title: Benton County Fence Right-of-way Renewal

Location of Proposed Action: Willamette Meridian, Benton County, Washington, T.10N.,R.27E., Section 18, N½, SW¼.

Description of Proposed Action: Approve an application received from Benton County Parks Department (Benton County). Benton County is applying to renew their right-of-way grant for an existing fence that is associated with their R&PP lease for the Rattlesnake Mountain Shooting Range. This right-of-way covers the portion of the boundary fence that was built off the lease boundary because of topography constraints. The original right-of-way grant was issued in 1988. No new rights will be issued or new ground disturbance approved as a result of this administrative action. The term of the grant will be 30 years.

Length: 6,800 feet x 15 feet wide. Refer to attached Exhibit-A map.

B. Land Use Plan Conformance

Land Use Plan Name: Spokane Resource Management Plan

Date Approved/Amended: Approved 1987/Amended 1992

Option 1 (conforms with LUP): The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

OR

(Option 2: not explicitly provided for in the LUP) The proposed action is in conformance with the applicable LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (*objectives, terms, and conditions*): The proposed action is subject to the Spokane District Resource Management Plan (1985) and Record of Decision (1987), and the 1992 RMP amendment and Record of Decision (ROD). Issuance of rights-of-way grants is listed under the heading "Administrative Actions" on page 5 (unnumbered) of the 1992 ROD.

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.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.

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

CX EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION The proposed categorical exclusion action will:	YES	NO
(a) Have significant impacts on public health or safety.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) 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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) 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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

SERIAL NUMBER WAOR-44414

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

**Benton County Parks Department
7122 West Okanogan Place
Kennewick, WA 99336-2359**

receives a right to install, operate, maintain, and terminate the Rattlesnake Mountain Shooting Facility fence located on public lands described as follows:

Willamette Meridian, Benton County, Washington

Township 10 North, Range 27 East,
Section 18, Portion of the N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$.

b. The right-of-way area granted herein is 15 feet wide, 6,800 feet long and contains 2.34 acres, more or less.

c. This instrument shall terminate on December 31, 2039 unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit 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 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. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit A dated December 9, 2009, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit 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. 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.
- h. Holder shall apply for amendment of this right-of-way grant at any time additional land, equipment, and/or new uses are proposed which are beyond the scope of the rights herein granted.
- i. The Holder shall be responsible for total control of all invasive/noxious weed species on any and all disturbed sites. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods, and shall comply with the following:

Use of pesticides shall comply with all applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses within limitations imposed by the Secretary of the Interior. Prior to the use of the pesticides, the Holder shall obtain from the Authorized Officer, written approval of a Pesticide Use Proposal Plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, locations of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer.

Applicator(s) of chemicals used must have completed the pesticide certification training and have a current up to date Certified Pesticide Applicator's License.

Pesticide Application Records for the areas and acres treated must be submitted to the BLM Border Field Office each year. This includes the following:

- Brand or Product name
- EPA registration number
- Total amount applied (use rate #A.I./acre)
- Date of application
- Location of application

Size of area treated
Method of treatment (air/ground)
Name of applicator
Certification number
Amount of surfactants or dyes used in spraying operation

The record information must be recorded no later than 14 days following the pesticide application and must be maintained for ten years.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

_____/S/ Signature on File_____
(Signature of Holder)

_____/S/ June E. Hues_____
(Signature of Authorized Officer)

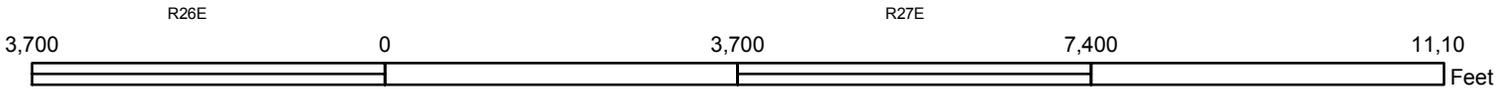
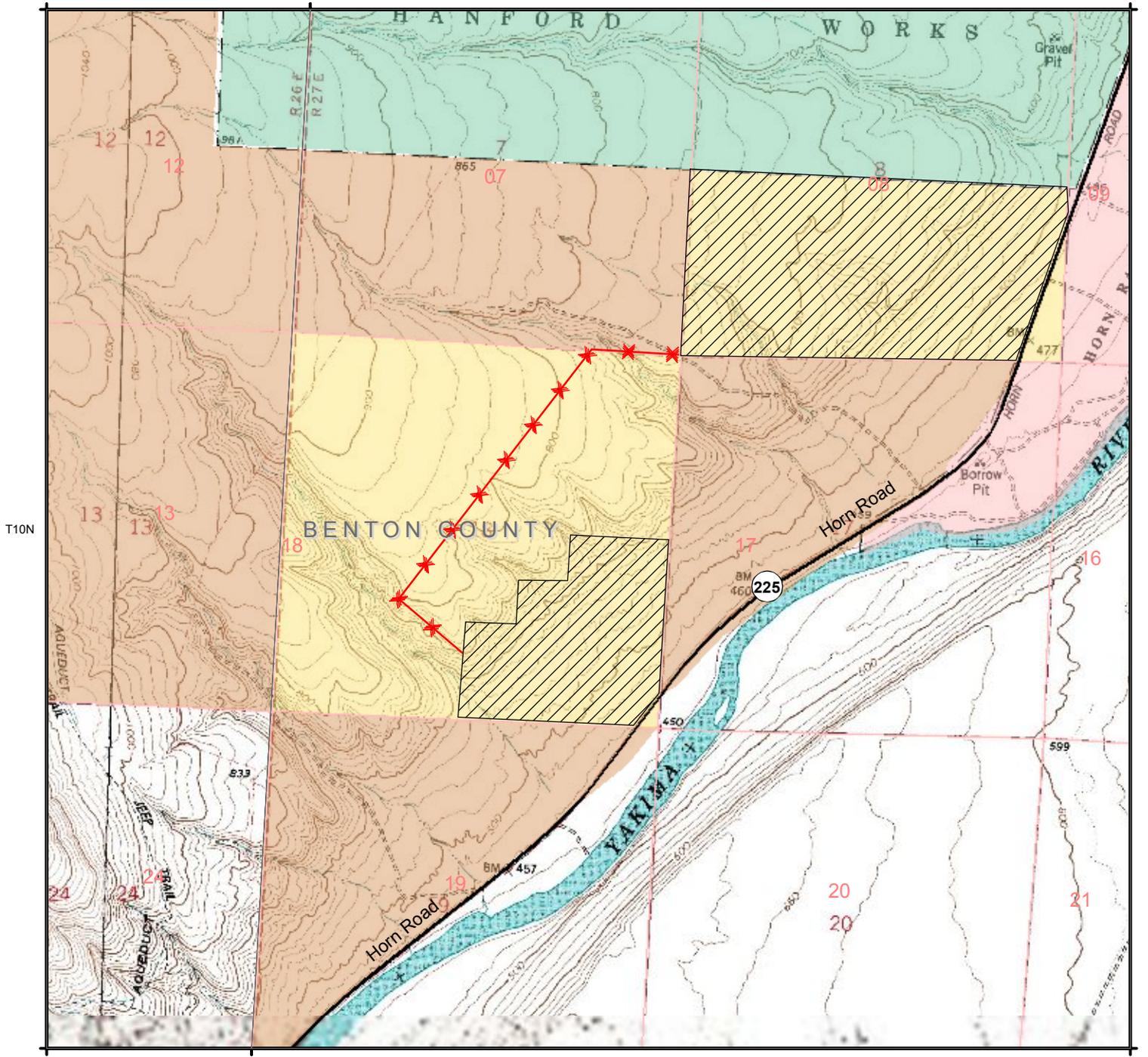
Chairman
(Title)

Field Manager
(Title)

12-28-09
(Date)

October 1, 2009
(Effective Date of Grant)

Exhibit A Benton County Fence Right-of-way Renewal - WAOR 44414



Willamette Meridian, Benton County, Washington
T.10 N., R.27 E., Section 18, Portion of N½, E½SW¼.
(15 feet wide right-of-way, 6,800 feet long)



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

-  Existing Fence Right-of-way
-  Benton County Existing Lease
-  Bureau of Land Management
-  U.S. Fish & Wildlife Service
-  WA Dept. of Fish and Wildlife
-  County

