

2800 (135)  
WAOR 34586

October 21, 2009

CERTIFIED MAIL - Courier Receipt No. \_\_\_\_\_

DECISION

City of West Richland :  
Public Works Department : Right-of-Way Grant  
3801 W. Van Giesen : WAOR 34586  
West Richland, Washington 99353 :

Right-of-Way Grant Amendment For WAOR 34586 Issued

It is my decision that Alternative 1 (Proposed Action) from Environmental Assessment #OR135-2007-EA-023 be approved and right-of-way grant WAOR 34586 be offered to the City of West Richland for the authorization of new and existing road and utility corridors. The right-of-way grant is issued subject to the mitigation measures identified in the Environmental Assessment.

Enclosed is a copy of your amended right-of-way grant, serial number WAOR 34586, which includes all of the rights issued in the original 1982 grant along with all the subsequent amendments. The amended right-of-way grant has an effective date of October 21, 2009 , and expires on December 31, 2042.

The issuance of this amendment to the 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

**FINDING OF NO SIGNIFICANT IMPACT**  
**City of West Richland Road Right-of-way Amendments**  
**Environmental Assessment OR135-2007-EA-023**

Based on the effects discussed in the environmental assessment, I have determined that the Proposed Action (Alternative 1) is not a major federal action which would significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. None of the environmental effects identified meet the definition of significance in context or intensity as defined in 40 CFR §1508.27. Therefore, an environmental impact statement is not necessary and will not be prepared. This finding is based on the following:

1. Beneficial, adverse, direct, indirect, and cumulative environmental impacts discussed in the EA have been disclosed. The physical and biological effects are limited to the site of the proposed action and adjacent lands. **Rationale:** Ground disturbance for this project will be limited to a less than 1 acre. Stipulations will be included in the right-of-way grant that minimize impacts to cultural and wildlife resources.
2. Public health and safety would not be adversely impacted. **Rationale:** Public safety would be enhanced by the widening and improving Melinda Drive.
3. There would be no adverse impacts to wetlands, floodplains, areas with unique characteristics or ecologically critical areas. **Rationale:** A timing restriction on construction activities will be used to minimize the possibility of disturbance to migratory bird nest, ground squirrels and burrowing owls which may occupy this site.
4. There are no highly controversial effects on the environment. **Rationale:** The BLM's analysis did not discern any controversy associated with this alternative.
5. There are no known effects that are highly uncertain or involve unique or unknown risk. **Rationale:** Because most the roads under application already exist and less than 1 acre of new construction, there is a high degree of certainty as to the effects.
6. This alternative does not set a precedent for other projects that may be implemented in the future. **Rationale:** Each road application project is individually judged based on its merits and the anticipated impacts. Approval of this project will not set a precedent for the approval of like projects.
7. This alternative is not related to any other existing or anticipated actions with cumulatively significant impacts. **Rationale:** No related projects or BLM management actions are in process, planned or anticipated for the lands in the vicinity of the project.
8. Based on recent cultural resource surveys, no adverse impacts to cultural resources were identified or anticipated. **Rationale:** As specified in the EA, if any cultural material is



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

SERIAL NUMBER WAOR-34586

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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:

**City of West Richland:  
Public Works Department  
3801 W. Van Giesen  
West Richland, Washington 99353**

receives a right to operate, maintain, and terminate numerous right-of-ways for roads and utility corridors on public lands described as follows:

See Exhibits A-1 through A-5

b. The right-of-way area granted herein contains 32.2 acres, more or less.

c. This instrument shall terminate on December 31, 2042, 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: Exempt pursuant 43 CFR 2806.14(b)

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 Exhibits A-1 to A-5, Exhibits B-1 and B-2, 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.

- j. If buried waste materials are uncovered during excavation activities, along the 25-foot wide right-of-way along the north boundary of the SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> of Section of T.9 N., R.28 E., work would stop and BLM would be notified as soon as possible so the waste materials can be assessed and removed.
- k. Construction activity and surface disturbance along the 25-foot wide right-of-way along the north boundary of the SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> of Section of T.9 N., R.28 E., will be prohibited during the period from August 15<sup>th</sup> and February 15<sup>th</sup> for the protection of the ground squirrel and burrowing owl. Any exceptions to this requirement must have prior written approval from the authorized officer.
- l. Construction activity, surface disturbance, and vegetation clearing along the 25-foot wide right-of-way along the north boundary of the SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> of Section of T.9 N., R.28 E., will be prohibited during the period from March 15<sup>th</sup> and July 1<sup>st</sup> for the protection of nesting migratory birds. Disturbance activities proposed to occur during the nesting period will be coordinated with the BLM wildlife biologist to determine if nesting is present within the footprint of the ground-disturbing activity. Any exceptions to this requirement must have prior written approval from the authorized officer.

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

\_\_\_\_\_/S/\_\_\_\_\_  
(Signature of Holder)

\_\_\_\_\_/S/ June E. Hues\_\_\_\_\_  
(Signature of Authorized Officer)

\_\_\_\_City Administrator\_\_\_\_\_  
(Title)

\_\_\_\_Border Field Manager\_\_\_\_\_  
(Title)

\_\_\_\_10/13/09\_\_\_\_\_  
(Date)

\_\_\_\_10/21/09\_\_\_\_\_  
(Effective Date of Grant)

City of West Richland Right-of-way Grant  
WAOR-34586  
EXHIBIT A-1

Rights-of-way legal descriptions of the original grant and reflecting the changes made to the grant by this amendment<sup>1</sup> and previous amendments dated August 15, 1985, July 24, 2003, and August 23, 2005:

Willamette Meridian, Benton County Washington,  
T. 9 N., R. 28 E.,  
Section 6, :

Lot 12: A 33' wide strip contiguous to the north, east and south lot lines;

Lot 18: A 33' wide strip contiguous to the north, west, and south lot lines;

Lot 53: A 33' wide strip contiguous to the north, west, south and east lot lines.

Lot 55: A 33' wide strip contiguous to the north, west and south lot lines;

Lot 56: A 33' wide strip contiguous to the north and south lot lines;

Lot 57: A 33' wide strip contiguous to the north lot line;

Lot 57: A parallelogram, 33' on each side, contiguous to the southwest lot corner and the south and west lot lines;

Lot 58: A 33' wide strip contiguous to the north lot line;

Lot 59: A 33' wide strip contiguous to the north and east lot lines;

Lot 64: A 33' wide strip contiguous to the east lot line;

Lot 64: A parallelogram, 33' on each side, contiguous to the southwest lot corner and the south and west lot lines;

Lot 65: A 33' wide strip contiguous to the south lot line;

Lot 66: A 33' wide strip contiguous to the west lot line;

Lot 66: A parallelogram, 33' on each side, contiguous to the southeast lot corner and the south and east lot lines;

Lot 77: A 33' wide strip contiguous to the west, south, and east lot lines;

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<sup>1</sup> Descriptions in bold typeface refer to amendments associated with the 2004 and 2007 applications.

Lot 83: A 33' wide strip contiguous to the west, north, and east lot lines;

Lot 89: A 33' wide strip contiguous to the east and south lot lines;

Lot 89: A parallelogram, 33' on each side contiguous to the northwest lot corner and the north and west lot lines;

Lot 107: A 33' side strip contiguous to the north, west, south and east lot lines;

Lot 137: A 33' wide strip contiguous to the east, north, and west lot lines;

Lot 141: A 33' wide strip contiguous to the east and south lot lines;

Lot 145: A 33' wide strip contiguous to the north and south lot lines;

Lot 146: A parallelogram, 33' on each side, contiguous to the northwest lot corner and the north and west lot lines;

Lot 146: A 33' wide strip contiguous to the south and east lot lines;

Lot 152: A 33' wide strip contiguous to the west, north, and east lot lines;

Lot 155: A 33' wide strip contiguous to the west and south lot lines;

**Lot 155: A 100' wide right-of-way along the alignment of the Bombing Range Road (Refer to Exhibits A-4 & A-5 for metes and bounds description);**

Lot 163: A 33' wide strip contiguous to the west, south and east lot lines;

Lot 173: A 33' wide strip contiguous to the north and east lot lines;

Lot 174: A 33' wide strip contiguous to the east and south lot lines;

Lot 178: A 33' wide strip contiguous to the west, north, and east lot lines;

Lot 180: A 33' wide strip contiguous to the north, west, and south lot lines;

Lot 181: A 33' wide strip contiguous to the north, east, and south lot lines;

Lot 202: A 33' wide strip contiguous to the north, east, and south lot lines;

Lot 206: A 33' wide strip contiguous to the north, west, and south lot lines;

Lot 207: A 33' wide strip contiguous to the north, east, and south lot lines;

Lot 223: A 33' wide strip contiguous to the north, east, south, and west lot lines;

SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>: A 40' wide strip and 350' in length contiguous to the west boundary between Paradise and Oasis streets (as shown in Exhibit A-2);

**SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>: A 25' wide strip along the north boundary line (Melinda Drive);**

**SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>: A 55' wide strip along the south boundary line (Paradise Way);**

**SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>: A 40 - 80' wide strip along the eastern boundary line (50<sup>th</sup> Ave.);**

Willamette Meridian, Benton County Washington,  
T. 9 N., R. 28 E.,  
Section 8, :

Lot 86: A 33' wide strip contiguous to the west, north, and east lot lines;

Lot 86: A 40' wide strip contiguous to the south lot line;

Lot 140: A 33' wide strip contiguous to the north, east, south, and west lot lines;

Lot 142: A 33' wide strip contiguous to the north, east, and south lot lines;

Lot 143: A 33' wide strip contiguous to the north, west, and south lot lines;

Lot 168: A 33' wide strip contiguous to the west, north, and east lot lines;

Lot 175: A 33' wide strip contiguous to the east, and south lot lines;

Lot 175: A parallelogram, 33' on each side, contiguous to the northwest lot corner and the north and west lot lines;

**Lot 175: A 40' wide strip contiguous to the north lot line;**

Lot 176: A 33' wide strip contiguous to the north, west, and south lot lines;

Lot 176: An 89 square-foot parcel in the northwesterly portion of the lot for pedestrian access at the intersection of Bombing Range road and Mt. Adams View (as shown in Exhibit A-3);

Lot 183: A 33' wide strip contiguous to the north, east, south, and west lot lines;

Lot 185: A 33' wide strip contiguous to the north, east, south, and west lot lines;

Lot 187: A 33' wide strip contiguous to the west and east lot lines;

Lot 199: A 33' wide strip contiguous to the south, north, and east lot lines;

Lot 200: A 33' wide strip contiguous to the south lot line;

Lot 215: A 33' wide strip contiguous to the west, north, and east lot lines;

Lot 217: A 33' wide strip contiguous to the north, east, south, and west lot lines;

Lot 235: A 33' wide strip contiguous to the east lot line;

Lot 236: A 33' wide strip contiguous to the west lot line;

Lot 240: A 33' wide strip contiguous to the west lot line;

Lot 247: A 33' wide strip contiguous to the south and west lot lines.

-- End of Exhibit A-1 --



# EXHIBIT A-5

LEGAL DESCRIPTION  
OF  
RIGHT OF WAY FOR BOMBING RANGE ROAD  
FROM THE  
BUREAU OF LAND MANAGEMENT  
ACROSS  
A PORTION OF LOT 155 OF WILLAMETTE HEIGHTS SUBDIVISION

September 25, 2008

That portion of Lot 155 of Willamette Heights, according to the plat thereof recorded in Volume 5, Page 52 of plats, records of Benton County, Washington, being situated in the NE1/4 of Section 6, Township 9 North, Range 28 East, Willamette Meridian, Benton County, Washington, more particularly described as follows:

Commencing at the northeast corner of said Lot 155, thence South  $88^{\circ}43'05''$  West, along the north line of said Lot 155, 174.23 feet, more or less, to the centerline of Bombing Range Road, said point being the POINT OF BEGINNING;

thence North  $88^{\circ}43'05''$  East along said north line of Lot 155, 55.37 feet to a point on a 592.33 foot radius non-tangent curve to the left (concave southeasterly), from which the radius point of said curve bears South  $64^{\circ}42'54''$  East;

thence southerly along the arc of said curve through a central angle of  $32^{\circ}52'03''$ ; 339.78 feet to a point on the south line of said Lot 155;

thence South  $88^{\circ}42'19''$  West along said south line 100.52 feet to a point on a 692.33 foot radius non-tangent curve to the right (concave southeasterly), from which the radius point of said curve bears North  $83^{\circ}19'43''$  East;

thence northerly along the arc of said curve through a central angle of  $27^{\circ}53'13''$ ; 336.97 feet to a point on the north line of said Lot 155;

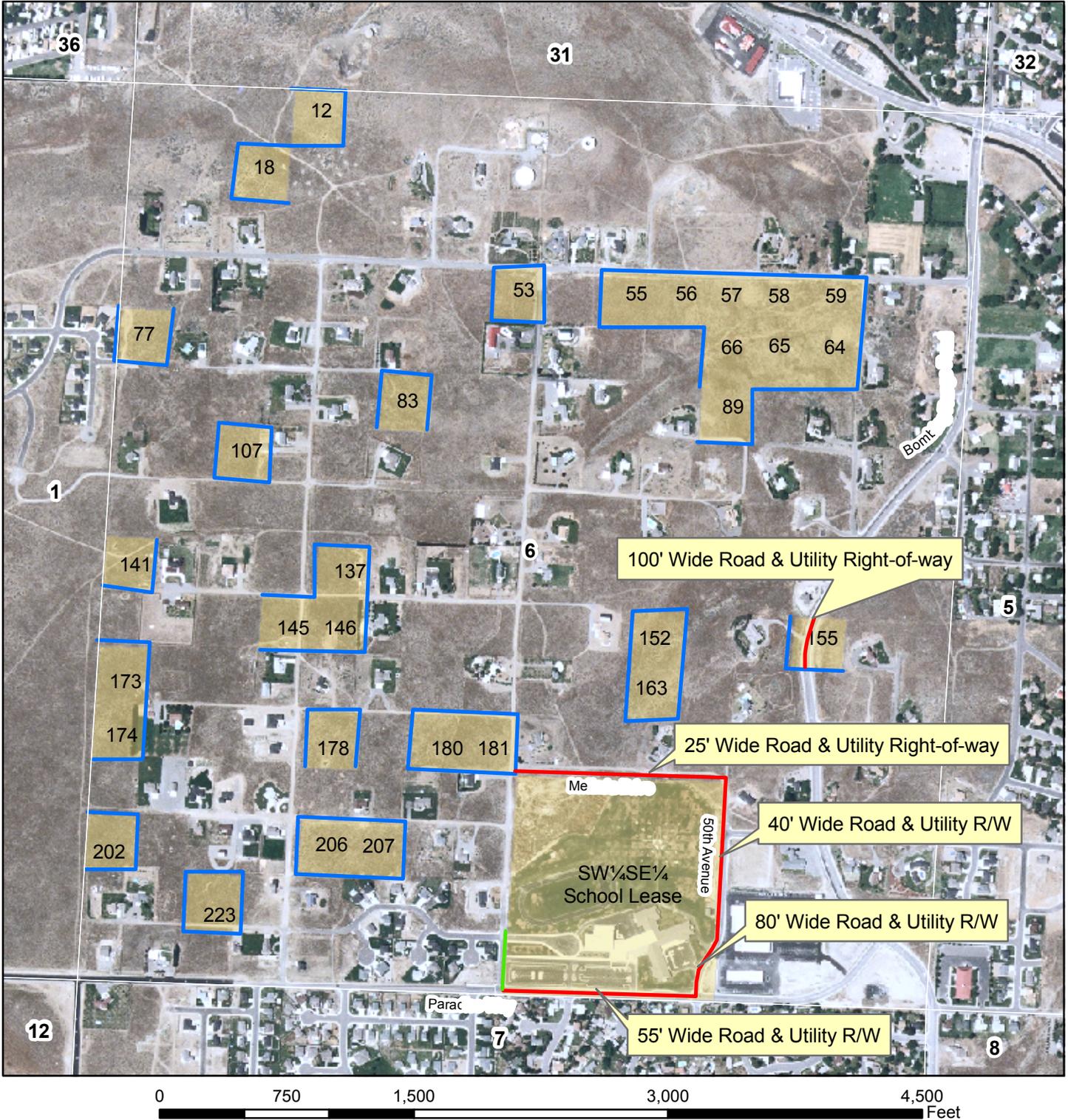
thence North  $88^{\circ}43'05''$  East along said north line of Lot 155, 54.49 feet to the POINT OF BEGINNING.

Containing 33,825 sq. ft., more or less.

## SUBJECT TO:

Existing rights-of-way and easements of record and/or appearing on above described parcel.

**City of West Richland  
Road & Utility Corridor Right-of-way  
WAOR-34586  
Exhibit B-1 Map**



1 inch = 833 feet

**Willamette Meridian, Benton County, Washington  
T. 9 N., R. 28 E., Section 6.**

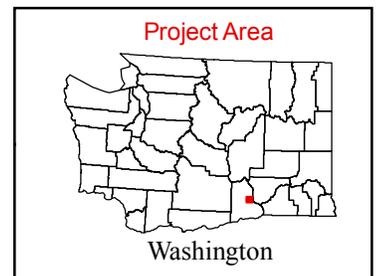


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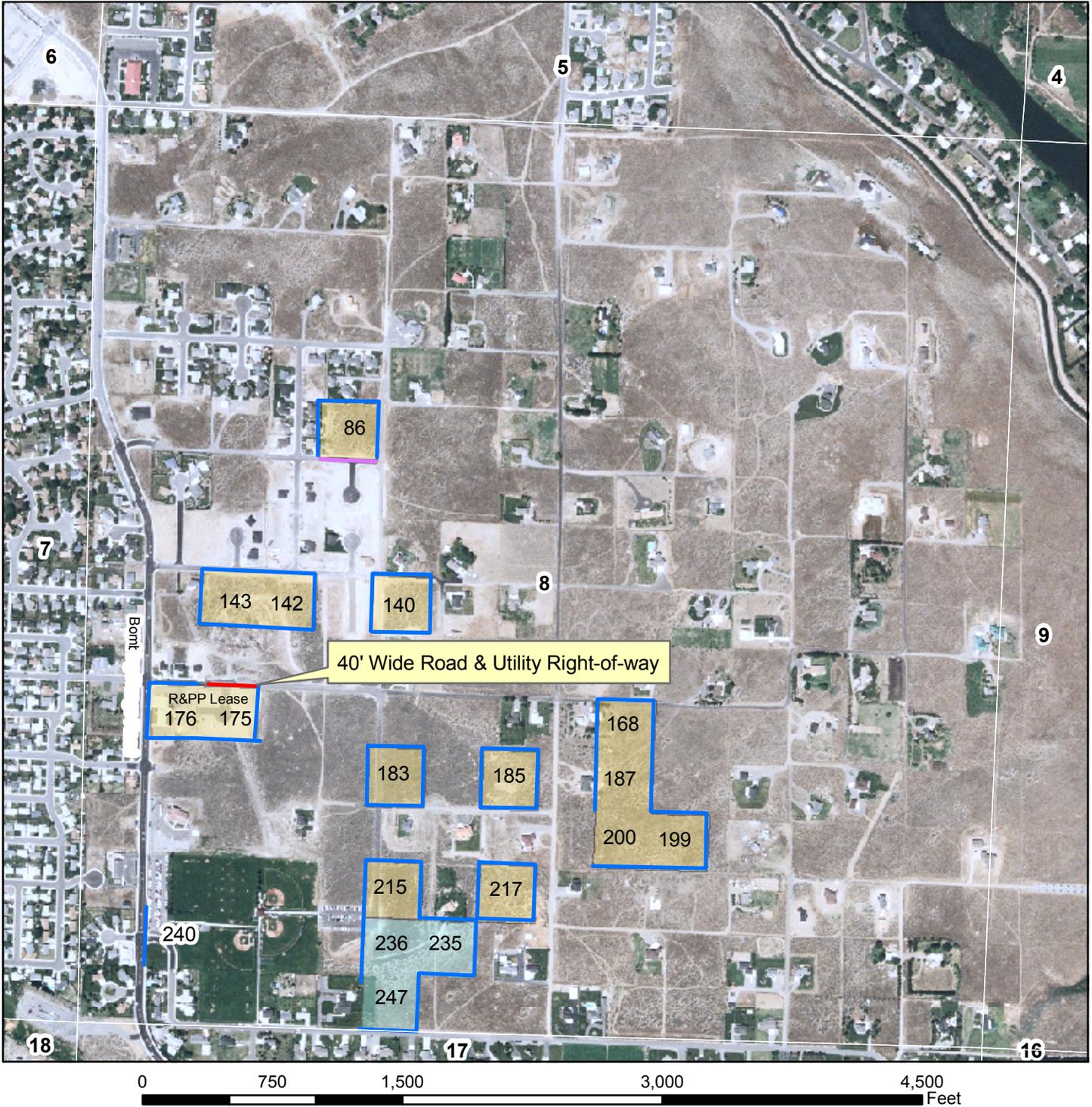


**Legend**

- BLM Lands (With Gov't Lot #'s)
- 2009 Amendment
- 2003 Amendment-40' Corridor
- 1985 Amendment-33' Corridor



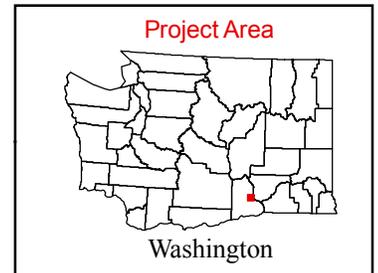
**City of West Richland  
Road & Utility Corridor Right-of-way  
WAOR-34586  
Exhibit B-2 Map**



1 inch = 833 feet

**Legend**

- BLM Lands (With Gov't Lot #'s)
- DNR Land (R&PP Patent)
- 2009 Amendment
- 2005 Amendment-40' Corridor
- 1985 Amendment=33' Corridor



**Willamette Meridian, Benton County, Washington  
T. 9 N., R. 28 E., Section 8.**



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