

**United States**  
**Department of the Interior**  
**Bureau of Land Management**

*Miles City Field Office*

**Cochran Road ROW**

**MTM-103143**

Environmental Assessment (EA)  
DOI-BLM-MT-C020-2013-0116-EA

*For Further Information Please Contact:*

Bureau of Land Management  
Miles City Field Office  
111 Garryowen Road  
Miles City, Montana 59301  
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**BLM**



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

ENVIRONMENTAL ASSESSMENT REVIEW

<b>OFFICE/AREA:</b> Miles City Field Office	<b>DOI-BLM-MT-C020-2013-0116-EA</b>
	<b>DATE ENTERED:</b> 3/19/2013
<b>NAME:</b> Cochran Road ROW MTM-103143	<b>DATE DUE:</b> 3/26/2013
	<b>FUNDING:</b> Applicant
<b>LOCATION:</b> T. 9 S., R. 57 E., Section 12: SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> and Section 13: W <sup>1</sup> / <sub>2</sub> NW <sup>1</sup> / <sub>4</sub> , Carter County, Montana	<b>SERIAL #:</b> MTM-103143

<b>ORIGINATOR DATE/INITIALS</b>	<b>TITLE</b>	<b>ASSIGNMENT</b>
Dalice Landers 3/19/13 <i>DDL</i>	Realty Specialist	Project Coordinator and Lands and Realty

<b>REVIEWERS</b>	<b>TITLE</b>	<b>ASSIGNMENT</b>	<b>DATE/INITIALS</b>
Bobby Baker	Wildlife Biologist	Wildlife/T&E	3/27/13 BJB
Doug Melton	Archaeologist	Cultural/Paleo	06/25/13 DM Cultural Report MT-020-13-227
Dena Lang	Outdoor Rec. Planner	Wild./VRM/Rec.	4/19/2013 DJL
Brenda Witkowski	Natural Res. Spec.	Weeds	3/25/2013 BSW
Chris Robinson	Hydrologist	Hydrology	3/20/13 CWR

  
\_\_\_\_\_  
ENVIRONMENTAL COORDINATOR

6/26/2013  
DATE

  
\_\_\_\_\_  
SUPERVISORY LAND USE SPECIALIST

6/27/2013  
DATE



## ENVIRONMENTAL ASSESSMENT

**EA NUMBER:** DOI-BLM-MT-C020-2013-0116-EA      **Serial Number:** MTM-103143

**PROPOSED ACTION/TITLE TYPE:**

Cochran Road Right-of-way MTM-103143

**LOCATION OF PROPOSED ACTION:**

T. 9 S., R. 57 E., Section 12: SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  and  
Section 13: W $\frac{1}{2}$ NW $\frac{1}{4}$ , Carter County, Montana, P.M.M.

**PREPARING OFFICE:** Miles City Field Office

**APPLICANT:** Cochran Grazing Association  
P. O. Box 111  
Boyes, Montana 59316

**DATE OF PREPARATION:** March 19, 2013

**CONFORMANCE WITH APPLICABLE LAND USE PLAN:** This proposed action is in conformance with the Powder River Resource Area RMP/EIS ROD which was approved on March 15, 1985. On page 4 of the Record of Decision, it states that "Rights-of-way applications will continue to be approved on a case-by-case basis with appropriate stipulations. Applicants are encouraged to locate new facilities within existing rights-of-way." The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5

**PURPOSE AND NEED:** Cochran Grazing Association plans to use the road for daily ranch management purposes. The road is an existing road, but they want to improve it and install culverts. Cochran proposes to obtain a right-of-way from the Bureau of Land Management to use this existing road.

**PROPOSED ACTION:** The proposed action would be for Cochran Grazing Association to obtain a right-of-way for an existing road across Federal land (Public Domain) in Carter County, Montana. The road right-of-way across Federal land would be 20 feet wide 2,895 feet long, and consist of 1.33 acres, more or less. This road already exists. Access from the north would be from Montana Highway 212 and then through Cochran's private land. Access from the south would be from the Ridge Road which is a county road MTM-96393.

The proposed road is “clay loam” with 4 inches of topsoil and 10 inches of subsoil available for salvage; this soil is highly saline and sodic and displays inclusions of unvegetated hardpan. The road would be constructed from existing materials at the site. They will surface the road with shale from private lands. Fill dirt or shale will not be taken off Federal land. The road would be located, constructed, and maintained in a manner that minimizes and controls erosion.

There are two culverts that need to be replaced (this will not be a new construction, but simply replacing existing culverts that have become inoperable) and minimal smoothing of the surface of road to maintain usability. This particular road has been in use since the homesteading days --about 80-90 years. In repairing the road, we plan to limit disturbance of the terrain adjacent to and of the road surface itself, however, with the culverts being in such disrepair and the condition of the road in terms of ruts present, the road is not useable in its current state.

A patrol/blade operator and a scraper operator would be involved in constructing the road. The road would be constructed and upgraded when needed. Construction would be done during dry-weather days. Road construction operations are conducted in a safe manner. The method of road construction is as follows: the scraper will haul the excess dirt to the low places and the road top would be bladed with the patrol/blade with ditch bottoms to contain water run-off along the roadway. Waterbars would be installed. Fill dirt will not be taken off Federal land unless it is authorized. There are two culverts that need to be replaced. They will be sized and placed as to allow flow to continue in its natural drainage. It would take approximately one day to complete.

The road would be used by ranch vehicles such as pickup trucks and livestock trailers. It would be a low volume road and used on a year-around basis. There would be approximately ten vehicles a month. Operation and maintenance activities will be minimal and will be conducted entirely within the right-of-way. Cochran would perform annual maintenance when weather permits. Snow removal will be conducted in the event of a pipeline emergency.

Maintenance activities would cease if precipitation occurs and would not resume until the ground is sufficiently dry to eliminate surface damage by construction equipment. No known hazardous materials would be used at any time on the road right-of-way. The road would require minimal expenditures for operation and maintenance. Periodic inspections would be conducted by Cochran personnel to ensure the road is drivable. Right-of-way maintenance and use would be monitored by the BLM.

Termination activities for the Federal surface area would be conducted in much the same manner as construction activities. Access would be available along the same routes. In the event that Cochran would abandon this road, they will meet with BLM personnel to decide if the road will remain or be reclaimed. Re-vegetation will be accomplished by the broad cast method in compliance with the clayey seed mixture recommended by BLM. In the event that vegetation does not meet a satisfactory stand, Cochran would provide a mix of seed and fertilizer to accomplish the vegetation needs.

The right-of-way would be issued pursuant to Title V of the Federal Land Policy and Management

Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761). The right-of-way would be subject to the terms and conditions in 43 CFR 2800, the terms and conditions and stipulations specified below, and mitigations set forth in the application and plan of development. Cochran has requested a right-of-way term for a period of 30 years and be renewable. Cochran would be subject to cost recovery and rental fees.

The standard stipulations for cultural and/or paleontological resource protection and toxic substances would be made a part of the right-of-way grant, as would the standard stipulation that all activities associated with the right-of-way would be conducted within the authorized limits of the grant. The applicant shall be responsible for weed control on disturbed areas within the limits of the right-of-way. There would be no construction or routine maintenance when the soils are too wet. The right-of-way would be subject to mitigations set forth in the application and plan of development. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands. The proper seedmix would be used for reclamation. All road operation, maintenance, reconstruction, design, material, and termination shall be made in accordance with the BLM Manual 9113 Road Standards.

**ALTERNATIVE 1 - NO ACTION:** The no action alternative would be not to allow Cochran a right-of-way across Federal land.

**AFFECTED ENVIRONMENT:** The following critical resources have been evaluated and are not affected by the proposed action or the alternatives in this EA:

<b>Mandatory Item</b>	<b>Potentially Impacted</b>	<b>No Impact</b>	<b>Not Present On Site</b>
Threatened and Endangered Species			X
Floodplains			X
Wilderness Values			X
ACECs			X
Water Resources		X	
Air Quality		X	
Cultural or Historical Values			X
Prime or Unique Farmlands			X
Wild & Scenic Rivers			X
Wetland/Riparian		X	
Native American Religious Concerns			X
Wastes, Hazardous or Solids		X	
Invasive, Nonnative Species		X	
Environmental Justice		X	

*The following non-critical resources will not be impacted by this proposed action; therefore they will not be analyzed in detail by this Environmental Assessment: forestry, riparian, hydrology,*

*wilderness, wild horse/burro, fire, geology, minerals, noise, weeds, and soils.*

Cultural: The proposed action has been examined for impacts to cultural and paleontological resources. The SHPO and BLM Miles City Field Office Cultural and Paleontological Resources Databases show no sites or paleontological localities have been recorded in the vicinity of the road. The road has been covered in other cultural resource inventories (See BLM Cultural Resources Report MT-020-13-227). The proposed action would have no effect to cultural properties listed on or eligible for listing on the National Register of Historic Places. Unanticipated discoveries of cultural resources made during culvert replacement of maintenance of the road would be covered through the cultural/paleontological stipulation attached to the ROW grant.

Hydrology: The proposed action is located within the Thompson Creek (HUC 1011020104) Watershed. Drainages in the area are largely ephemeral in nature and only flow as a result of snowmelt or precipitation events. Peak flows generally occur March through May, resulting from melting snow and rainfall. Intense flows of short duration occur throughout the summer following thunderstorms. There is a stock pit located approximately 300 feet south of the project area.

Lands/Realty: There are no existing rights-of-way or permits near the area of the proposed project.

Vegetation: The principal forage species are sagebrush, Nuttall saltbush, western wheatgrass, and blue grama. The distinguishing species of grasses are thickspike wheatgrass, streambank wheatgrass, alkali sacaton. Other common species of grasses include plains reedgrass, bluebunch wheatgrass, needle-and-thread, Sandberg bluegrass, green needlegrass and Indian ricegrass. The distinguishing species of shrubs are Nuttall saltbush and sagebrush. Other common shrubs include plains pricklypear, black greasewood, and broom snakeweed. The distinguishing species of forbs are scurfless saltbush, biscuitroot, Nuttall monolepis, wild onion, wildbuckwheat, and scarlet globemallow. A common sedge is threadleaf sedge.

Wetland/Riparian: The National Wetland Inventory database administered by the U.S. Fish and Wildlife Service indicates the presence of a freshwater emergent wetland approximately 350 feet west of the project area. No data exists on the condition of these wetland/riparian areas.

Wildlife: This area provides habitat for game species including mule deer, pronghorn, and sage grouse. This portion of Carter County has been delineated as Preliminary Priority Habitat (PPH) for sage grouse as identified by Washington Office Instruction Memorandum 2012-043. Two active sage grouse leks/lek complexes are located within 1.5 miles of the project area. One lek (designated as CA-083 by Montana Department of Fish, Wildlife, and Parks (MTFWP)) is located in NE4NW4SE4, Section 2, T 9S, R 57E. This lek was first reported by BLM in 2006 when 15 sage-grouse were observed during an aerial survey; ACC counted four male sage-grouse here in 2008 and six males in 2009, although weather conditions only allowed for one visit each of those years. In 2010 the high number was eight males counted during three visits throughout March and April, in 2011 a high of five males during four visits, and in 2012 a high of nine males during four visits.

A historical lek complex comprised of three separate lek locations within approximately 1/4 to 3/8ths mile of each other (CA-037, 039, 039A) is located along the Ridge Road about ¼ mile west of where the origination of the proposed action road intersects with the Ridge Road. This complex was first reported in 1975, and ACC has monitored sage-grouse activity at this complex for most of the past 17 years (not monitored in 1996, 1998, and 2000). A high of 68 birds was observed at the lek in 2005. Approximately 50 males were seen in 2006, 42 in 2007, 11 in 2008, 12 in 2009, 7 in 2010, 15 in 2011, and 17 in 2012. In addition, sage grouse have been documented utilizing this area during the winter season.

A variety of non-game species also utilize this area, including raptors, songbirds, and other migratory birds; small mammals, etc. T&E species do not exist within this area.

Visual Resource Management (VRM): The proposed project is within visual resource management Class III. The objective of this class is to partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention, but should not dominate the view of the casual observer. Changes caused by management activities may be evident but should not detract from the existing landscape.

## **ENVIRONMENTAL IMPACTS:**

### **DESCRIPTION OF IMPACTS FROM PROPOSED ACTION:**

Hydrology: In the short-term, grading activities would increase local erosion and sediment delivery to streams. However, the ephemeral nature of nearby drainages, the distance from the surface disturbing activity to these drainages (>600 feet), and the well-vegetated nature of these buffers would reduce impacts to water quality to negligible levels.

Wetland/Riparian: No surface disturbing activities would occur within 300 feet of wetland/riparian areas. The well-vegetated nature of wetland/riparian buffers would reduce impacts to water quality and erosion to negligible levels.

Wildlife: Displacement of some wildlife species intolerant to disturbance will occur during maintenance activities or vehicle traffic. The proposed maintenance and vehicle use activities are of short duration and temporary, so wildlife species would be expected to utilize these areas shortly after activities and/or travel is completed. Potential impacts to sage grouse during the breeding season will be minimized by not authorizing road maintenance activities from one hour prior to sunset to 9:00 a.m. between the dates of March 1 to May 15. In the event the ROW is terminated, and reclamation of the existing road is necessary, the reclamation seed mix will include forbs and shrubs important to sage grouse habitat requirements. With these mitigation measures in place it has been determined, in coordination with MTFWP, that this ROW would cumulatively maintain Greater-Sage grouse and its habitat” (as necessary per IM-043).

Visual Resource Management (VRM): The level of change to the landscape would be moderate with the proposed action. Vegetation of the surrounding area would be restored through reclamation and disturbed areas would be reseeded. The project area itself is currently a road and the proposed project with the additional construction, would increase one's attention of the road. However, management objectives will allow for this level of change. The proposed action and reclamation, once in place, will not attract attention and dominate the view of the casual observer.

#### **DESCRIPTION OF IMPACTS FROM ALTERNATIVE 1 - NO ACTION:**

There could be an impact to Cochran if BLM did not allow them to obtain a right-of-way for the road for daily ranch management activities. The no action alternative would prevent Cochran from maintaining this road.

#### **CUMULATIVE IMPACTS:**

There would be no other cumulative impacts from this project in addition to those identified in the Powder River Resource Management Plan completed in 1985. A detailed discussion of these cumulative impacts can be found on Pages 107 and 124 of the Powder River EIS.

#### **MITIGATION:**

The right-of-way grant would be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the following stipulations:

1. 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.
2. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
3. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.

4. The holder shall conduct all activities associated with the construction, operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.

5. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) 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 right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported 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 shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

6. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

7. The holder shall seed all disturbed areas with the seed mixture listed below. The seed mixture shall be planted in the amounts specified in pounds of pure live seed (PLS)/acre. There shall be no primary or secondary noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with State law(s) and within six months prior to purchase. Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with State law(s) and available for inspection by the authorized officer.

Seed shall be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture shall be evenly and uniformly planted over the disturbed area. (Smaller/heavier seeds have a tendency to drop to the bottom of the drill and are planted first. The holder shall take appropriate measures to insure this does not occur.) Where drilling is not possible, seed shall be broadcast and the area shall be raked or chained to cover the seed. When broadcasting the

seed, the pounds per acre noted below are to be doubled. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of the second growing season after seeding. The authorized officer is to be notified a minimum of seven (7) days prior to seeding of the project.

**Seed Mixture** (clayey) - Western wheatgrass must be included in the mix. Thickspike wheatgrass may be substituted only when western wheatgrass is unavailable. The combination for the seed mixture must include at least four of the following species including Western wheatgrass:

<i>Species of Seed</i>	<i>(Variety)</i>	<i>Common Name</i>	<i>Pounds/acre</i> <i>*(PLS)</i>
<u>Pascopyrum smithii</u>	(Rosanna)	Western wheatgrass	3.00
<u>Pseudoroegneria spicata</u>	(Goldar)	Bluebunch wheatgrass	2.00
<u>Stipa viridula</u>	(Lodom)	Green needlegrass	2.00
<u>Elymus trachycaulus</u>	(Pryor)	Slender wheatgrass	2.00
<u>Stipa comata</u>		Needleandthread	1.00
<u>Bouteloua curtipendula</u>		Sideoats Grama	2.00
<u>Schizachyrium scoparium</u>		Little bluestem	2.00

*\*Pure Live Seed (PLS) formula: % of purity of seed mixture times % germination of seed mixture = portion of seed mixture that is PLS.*

8. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands.
9. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.
10. All operation, maintenance, reconstruction, design, material, and termination practices shall be in accordance with safe and proven engineering practices as stated in BLM Manual 9113- Road Standards.
11. Holder shall limit excavation to the areas of construction. No borrow areas for fill material will be permitted on the site. All off-site borrow areas must be approved in writing by the authorized officer in advance of excavation. All waste material resulting from construction or use of the site by holder shall be removed from the site. All waste disposal sites on public land must be approved in writing by the authorized officer in advance of use.
12. Maintenance activities will not occur from one hour prior to sunset to 9:00 a.m. between the dates of March 1 to May 15 for the protection of sage grouse breeding activities.

**CONSULTATION/COORDINATION:**

Larry Pilster, Lacey Williams, Lawrence Capra – Partners in the Cochran Grazing Association

**LIST OF PREPARERS:**

Doug Melton, Archaeologist

Bobby Baker, Wildlife Biologist

Chris Robinson, Hydrologist

Dena Lang, Outdoor Recreation Planner

Brenda Witkowski, Natural Resource Specialist (Weeds)

Dalice Landers, Realty Specialist



**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MILES CITY FIELD OFFICE  
FINDING OF NO SIGNIFICANT IMPACT  
COCHRAN ROAD RIGHT-OF-WAY MTM-103143  
DOI-BLM-MT-C020-2013-0116-EA**

**BACKGROUND**

The origin of the environmental assessment was due to a request from Cochran Grazing Association for a road right-of-way (ROW) for ranch management activities.

**FINDING OF NO SIGNIFICANT IMPACT**

On the basis of the information contained in the EA (DOI-BLM-MT-C020-2013-0116-EA), and all other information available to me, it is my determination that:

- (1) The implementation of the Proposed Action or alternatives will not have significant environmental impacts beyond those already addressed in the Powder River Resource Management Plan.
- (2) The Proposed Action is in conformance with the Record of Decision for the Powder River Resource Management Plan; and
- (3) The Proposed Action does not constitute a major federal action having a significant effect on the human environment.

Therefore, an environmental impact statement or a supplement to the existing environmental impact statement is not necessary and will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and to the intensity of the impacts described in the EA.

**Context**

The proposed action is a site-specific action which would occur in Carter County, Montana which is designated as available for acceptance of ROW proposals in the Powder River RMP. The RMP anticipated that ROW applications would continue to be approved in areas where rights-of-way are allowed and stipulations from the BLM Manual 2800 will be used to protect resource values. The proposed action is in accordance with the Powder River RMP.

Under the Proposed Action, ROW Grant MTM-103143 would be issued to Cochran Grazing Association to allow them to maintain and repair the road across the following Federal land (PD Land):

- T. 9 S., R. 57 E., Section 12: SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub> and  
Section 13: W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, Carter County, Montana, P.M.M.

This road will be authorized with a ROW which will be issued under Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761). The permanent ROW will be 20 feet wide and approximately 2,895 feet in length, and consist of 1.33 acres, more or less. It will be authorized for a term of 30 years and be renewable. The proposed project will be constructed, used, maintained, and terminated in conformance with the Cochran Plan of Development which was submitted with their application. Cochran Grazing Association will be subject to cost recovery and rental fees in accordance with 43 CFR 2804.14, 2805.16, and 2806. The ROW will be subject to the terms and conditions in 43 CFR 2800, the Plan of Development, the application, and the stipulations listed below.

### **Intensity**

I have considered the potential intensity/severity of the impacts anticipated from the proposed action and all alternatives relative to each of the ten areas suggested for consideration by the CEQ.

**1. Impacts that may be both beneficial and adverse.** The effects from the proposed project are described in the EA. In addition to mitigation measures included in the project design, BLM developed additional mitigation measures to further minimize or eliminate adverse impacts to other resources and land uses. These additional mitigation measures are identified in the proposed action and are attached to this document as ROW Stipulations. The EA also disclosed a beneficial impact from the proposed project, which would be to provide the applicant with access to manage the operation of the ranch. None of the environmental effects discussed in detail in the EA are considered significant, nor do the effects exceed those described in the Powder River Resource Area Management Plan.

**2. The degree to which the proposed action affects public health and safety.** No aspect of the proposed action would have an effect on public health and safety.

**3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.** No known historic or cultural resource sites or paleontological localities would be affected by the proposed action. The proposed action meets the inventory exemption criteria found in BLM Montana/Dakotas Cultural Resources Handbook H-8110-1, Appendix One, Realty No. 9. There would be no effect to historic properties from the proposed action. There are no parks, prime farmlands, or wild and scenic rivers in the planning area.

**4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.** No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action. "Highly controversial" in the context of 40 CFR 1508.27(b)(4), refers to substantial disagreement within the scientific community about the environmental effects of a proposed action. No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action.

**5. The degree to which the possible effects on the human environment are highly uncertain or**

*involve unique or unknown risks.* The analysis has not shown that there would be any unique or unknown risks to the human environment.

**6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*** This project neither establishes a precedent nor represents a decision in principle about future actions. The proposed action is consistent with actions appropriate for the area as designated by the Powder River RMP.

**7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*** The environmental analysis did not reveal any cumulative effects beyond those already analyzed in the EISs which accompanied the Powder River RMP.

**8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.*** The proposed action will not adversely affect any district, site, highway, structure, or object listed or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historic resources.

**9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*** There are no threatened or endangered species or habitat in the area of the proposed action.

**10. *Whether the action threatens a violation of Federal, State, Tribal or Local law or requirements imposed for the protection of the environment.*** The proposed action does not threaten to violate any Federal, State, Tribal, or local law. Furthermore, the project is consistent with applicable land management plans, policies, and programs.



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Todd D. Yeager  
Field Manager  
Miles City Field Office

06/27/2013

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Date



**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MILES CITY FIELD OFFICE  
RECORD OF DECISION  
COCHRAN ROAD RIGHT-OF-WAY MTM-103143  
DOI-BLM-MT-C020-2013-0116-EA**

**DECISION**

It is my decision to select the Proposed Action Alternative as described in Cochran's EA for a road right-of-way for ranch management activities. The EA and the FONSI analyzed the selected alternative and found no significant impacts. Implementation of this decision will result in the issuance of a Federal Land Policy and Management Act (FLPMA) ROW to Cochran Grazing Association for a road. The selected alternative is in conformance with the Powder River Resource Management Plan.

**ALTERNATIVES**

In addition to the selected alternative, the EA considered the "No Action" alternative, which would carry out no management activities at this time.

**RATIONALE FOR SELECTION**

The purpose of the action is to allow Cochran a right-of-way for a road through the following Federal land (Public Domain):

T. 9 S., R. 57 E., Section 12: SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  and  
Section 13: W $\frac{1}{2}$ NW $\frac{1}{4}$ , Carter County, Montana, P.M.M.

This action would be authorized by the issuance of a Federal Land Policy and Management Act ROW grant to Cochran Grazing Association. The proposed action is in conformance with the Powder River RMP/EIS and will provide Cochran with permission to maintain the road.

**CONSULTATION AND COORDINATION**

The following BLM specialists were consulted: Doug Melton, Archaeologist; Bobby Baker, Wildlife Biologist; Chris Robinson, Hydrologist; Dena Lang, Outdoor Recreation Planner; Brenda Witkowski, Natural Resource Specialist (Weeds); and Dalice Landers, Realty Specialist. Larry Pilster, Lacey Williams, and Lawrence Capra are partners in the grazing association. The Cochran ROW EA (DOI-BLM-MT-C020-2013-0116-EA) was made available online via the Miles City Field Office NEPA log.

## IMPLEMENTATION

Once the Cochran EA FONSI and Decision Record are approved, one FLPMA ROW grant will be issued to Cochran as described in the subject EA with the identified stipulations included as part of the grant. This decision will be effective immediately. Actions may begin immediately in accordance with any restrictions or constraints imposed by the grant and stipulations. The grant will be monitored for maintenance, use, and termination.

## ADMINISTRATIVE REVIEW OPPORTUNITIES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, the notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. If the appellant wishes to file a petition (request) pursuant to regulations 43 CFR 2801.10 for a stay (suspension) of the effectiveness of this decision during the time the appeal is being reviewed by the Board, the petition for a stay must accompany the 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 the appellant requests a stay, they 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.



6/27/2013

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Todd D. Yeager  
Field Manager  
Miles City Field Manager

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Date

## MITIGATION MEASURES/REMARKS:

The right-of-way grant would be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the following stipulations:

1. 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.
2. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
3. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
4. The holder shall conduct all activities associated with the construction, operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.
5. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) 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 right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported 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 shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
6. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the

United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

7. The holder shall seed all disturbed areas with the seed mixture listed below. The seed mixture shall be planted in the amounts specified in pounds of pure live seed (PLS)/acre. There shall be no primary or secondary noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with State law(s) and within six months prior to purchase. Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with State law(s) and available for inspection by the authorized officer.

Seed shall be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture shall be evenly and uniformly planted over the disturbed area. (Smaller/heavier seeds have a tendency to drop to the bottom of the drill and are planted first. The holder shall take appropriate measures to insure this does not occur.) Where drilling is not possible, seed shall be broadcast and the area shall be raked or chained to cover the seed. When broadcasting the seed, the pounds per acre noted below are to be doubled. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of the second growing season after seeding. The authorized officer is to be notified a minimum of seven (7) days prior to seeding of the project.

Seed Mixture (clayey) - Western wheatgrass must be included in the mix. Thickspike wheatgrass may be substituted only when western wheatgrass is unavailable. The combination for the seed mixture must include at least four of the following species including Western wheatgrass:

Species of Seed	(Variety)	Common Name	Pounds/acre *(PLS)
<i>Pascopyrum smithii</i>	(Rosanna)	Western wheatgrass	3.00
<i>Pseudoroegneria spicata</i>	(Goldar)	Bluebunch wheatgrass	2.00
<i>Stipa viridula</i>	(Lodom)	Green needlegrass	2.00
<i>Elymus trachycaulus</i>	(Pryor)	Slender wheatgrass	2.00
<i>Stipa comata</i>		Needleandthread	1.00
<i>Bouteloua curtipendula</i>		Sideoats Grama	2.00
<i>Schizachyrium scoparium</i>		Little bluestem	2.00

\*Pure Live Seed (PLS) formula: % of purity of seed mixture times % germination of seed mixture = portion of seed mixture that is PLS.

8. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands.

9. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.

10. All operation, maintenance, reconstruction, design, material, and termination practices shall be in accordance with safe and proven engineering practices as stated in BLM Manual 9113- Road Standards.

11. Holder shall limit excavation to the areas of construction. No borrow areas for fill material will be permitted on the site. All off-site borrow areas must be approved in writing by the authorized officer in advance of excavation. All waste material resulting from construction or use of the site by holder shall be removed from the site. All waste disposal sites on public land must be approved in writing by the authorized officer in advance of use.

12. Maintenance activities will not occur from one hour prior to sunset to 9:00 a.m. between the dates of March 1 to May 15 for the protection of sage grouse breeding activities.