

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

**Environmental Assessment MT-100-06-006
June 2007**

**Granite County Road Right-of-Way across Fred Burr Creek,
MTM-95016**

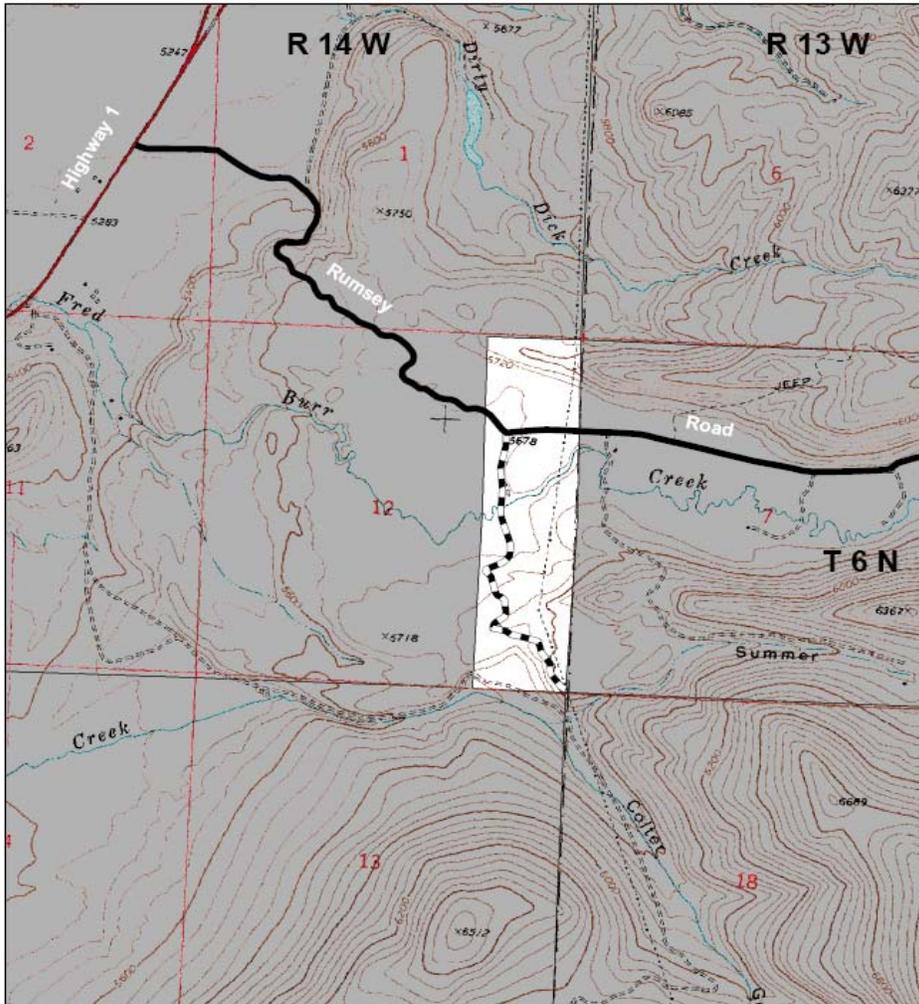
*Location: Section 12, T6N, R14W, 3 miles south of Philipsburg in Granite County,
Montana.*

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Introduction

Granite County has applied to BLM for a Right-of-Way to build approximately 4800 feet of new road across a 160 acre parcel of BLM land 3 miles south of Philipsburg, Montana. Development of the road would also include construction of a bridge across Fred Burr Creek (Figure 1).



Proposed Right-of-Way - MTM95016

Granite County

E1/2E1/2, Sec. 12, T. 6 N., R. 14 W.

0 0.5 1 Miles

■ ■ ■ Proposed R/W Location

□ BLM Land

■ Private Land



Figure 1

The BLM parcel lies in between smaller parcels to the west, north and east and is in the E1/2 E1/2 of Section 12, T. 6 N., R. 14 W. (Figure 2).



Figure 2

If this road is built, Discovery Ski Area would use this new northern route to provide access to new ski runs which are scheduled to be built in Section 18, directly southeast of this 160 acre BLM parcel. Discovery Ski Area has stated that they plan to build the ski runs whether or not this road is built.

This Environmental Assessment (EA) has been prepared to disclose and analyze the environmental consequences of the new road and bridge as proposed by Granite County. The EA is a site-specific analysis of potential impacts that could result with the implementation of the proposed action or alternatives to the proposed action. The EA assists the BLM in project planning and ensuring compliance with the National Environmental Policy Act (NEPA), and in making a determination as to whether any “significant” impacts could result from the analyzed actions. “Significance” is defined by NEPA and is found in regulation 40 CFR 1508.27. An EA provides evidence for determining whether to prepare an Environmental Impact Statement (EIS) or a statement of “Finding of No Significant Impact” (FONSI). If the decision maker determines

that this project has “significant” impacts following the analysis in the EA, then an EIS would be prepared for the project. If not, a Decision Record may be signed for the proposed project approving the selected alternative, whether the proposed action or another alternative. A Decision Record (DR), including a FONSI statement, documents the reasons why implementation of the selected alternative would not result in “significant” environmental impacts (effects) beyond those already addressed in the Garnet Resource Area Resource Management Plan RMP/EIS (1986) as amended.

Purpose and Need

The purpose of the proposed road would be to connect an existing county road, Rumsey Road, with a county road segment located southeast of the BLM land in Section 18, T6N, R13W, the Echo Lake Road, providing for a continuous county right of way to serve future development of Discovery Ski Area, other private lands and Forest Service lands around Rumsey Mountain with year-round access.

Section 501 of FLPMA [43 U.S.C. 1761] authorizes the BLM to grant, issue, or renew rights-of-way over, upon, under, or through public lands for roads. An alternate route that lies outside the jurisdiction of the BLM, Fred Burr Creek Road, was considered by the county, but determined by the county to be not feasible due to multiple easements required from private landowners.

Conformance With Applicable Land Use Plan: In accordance with 43 CFR 1610.5, the Proposed Action is subject to and conforms with the Record of Decision for the Garnet Resource Area Resource Management Plan RMP/EIS (1986) as amended. The project is located on lands designated in the RMP as Management Areas 1,3,13, and 14 (MA-1, 3, 13, 14). These MAs place emphasis on riparian zone protection, timber management, wildlife and livestock forage values and mineral extraction. The Proposed Action follows the Management Goals and Guidelines stated in the RMP for these MAs. This EA incorporates by reference the Beaverhead-Deerlodge National Forest’s Discovery Ski Area Final Environmental Impact Statement, April 2001 with a Record of Decision of May, 2001.

DESCRIPTION OF ALTERNATIVES

This EA focuses on the Proposed and No Action alternatives. Another alternative route that was considered but eliminated from detailed analysis includes a route that lies outside the jurisdiction of the BLM, Fred Burr Creek Road. This route was considered by the county, but determined to be not feasible at this time due to lack of available right-of-way easements. The no action alternative is considered and analyzed to provide a baseline for comparison of the impacts of the proposed action.

Proposed Action (PA)

The BLM would approve the Granite County Road Right-of-Way in accordance with the Terms and Conditions and Road Construction Standards listed in Appendix A and B. In addition to meeting BLM stipulations, the 4,800 foot long road would be built in accordance with county

road and bridge standards, and would cross Fred Burr Creek approximately 300 feet west of the informal recreation site known locally as the Fred Burr Creek swimming hole.

Trees and associated forest vegetation would be removed from approximately 7 acres to allow for road construction.

General Road and Bridge Design and Maintenance Features

The road would be a 24' wide, two lane gravel road on a 60' right of way. Grades would generally be limited to 8% with 12% allowed for segments of less than 300 feet (1 segment per ½ mile.) The road base would consist of 12" of pit run gravel with a surface material of 6" of ¾" minus crushed gravel. The road would be crowned with a 2% crown and drained.

The bridge would be built in accordance with the Granite County Bridge Standards except that the minimum design flood would be the 100 year event. The initial site design indicates the bridge may be a pre-engineered steel bridge on pre-cast concrete footings with a total length of 40'.

Compliance Measures Required by the Grant

In accordance with conditions of the grant, prior to construction, the holder will submit a plan of development (POD) that describes in detail the construction, operation and maintenance of the right-of-way and its associated improvements and/or facilities. The plan shall include drawings in sufficient detail to enable a complete evaluation of all proposed structures and facilities to ensure compliance with the requirements of the grant.

The following measures are examples of the type of details that will be included in the POD. These measures were considered in the analysis of environmental effects.

- The road will be designed so that maintenance such as grading does not cause side-casting and surface material loss into the high-water marks of the stream.
- No fill or abutments will be placed below the 100 year floodplain. All ground-disturbing work will occur above the 100 year floodplain.
- No rock or rip-rap will be placed along Fred Burr Creek.
- The stream will be completely isolated from the construction area by sediment fence in order to prevent soils from entering Fred Burr Creek during the work.
- The sediment fence will be left in place until the area is completely stabilized by vegetation. Coir logs (straw stabilizers) may be used in lieu of sediment fence following the work.
- An approved native grass seed mix will be used for re-vegetation. Re-vegetation must also include native shrubs and trees if any of those outside the road prism are affected by the project.
- The bridge design will include deck and curb features to prevent sediment from falling off the bridge into Fred Burr Creek. Native material (i.e., road gravel and dirt) will not be placed at any time on the bridge deck.
- The road near the swimming hole will be treated for dust annually.

- No excavation or disturbance of streambanks will be required for the work. Abutments for the bridge will be placed ≥ 10 feet from the wetted channel.
- Abutments and the bridge decking will be placed outside the 100-year flood elevation, so there will be no constriction of flow at the site.
- The road approaches to the bridge will ramp **up** to the bridge deck, preventing water and sediment from flowing down the road, onto the bridge, and into Fred Burr Creek.
- During construction, trees will not be cut in June to protect nesting migratory birds.

No Action

Under the No Action alternative, BLM would deny the application for a Right-of-Way. If denied, the applicant could abandon the proposal or pursue an alternative route across private lands for access.

AFFECTED ENVIRONMENT & ENVIRONMENTAL CONSEQUENCES:

The affected environment of the Proposed Action and No Action alternatives were considered and analyzed by an interdisciplinary team as documented in the checklist below. The checklist indicates which resources of concern are either not present in the project area or would not be impacted to a degree that requires detailed analysis. Critical Elements of the Human Environment are those elements that are subject to the requirements specified in statute, regulation, or executive order, and must be considered in all EAs.

Critical Elements

Determination*	Resource	Rationale for Determination
CRITICAL ELEMENTS		
NI	Air Quality	Some road dust issues, addressed under Recreation and Mitigation Measures.
NP	Areas of Critical Environmental Concern	
NP	Cultural Resources	
NP	Environmental Justice	
NP	Farmlands (Prime or Unique)	
NI	Floodplains	All activities will take place outside of the 100 year floodplain.
NI	Invasive, Non-native Species	The applicant is responsible for consultation with the BLM and/or local authorities for acceptable weed control methods within the limits imposed in the grant stipulations.
NP	Native American Religious Concerns	
PI	Threatened, Endangered or Candidate Plant or Animal Species	Various Species: Present in areas where project work is proposed Discussed in “Aquatic Species and Habitat” and “Wildlife Species and Habitat” section.

NP	Wastes (hazardous or solid)	
NP	Water Quality (drinking/ground)	
PI	Wetlands/Riparian Zones	Stream Crossing at Fred Burr Creek
NP	Wild and Scenic Rivers	
NP	Wilderness	
OTHER ISSUES FOR ANALYSIS		
PI	Aquatic Species and Habitat	Various fish species: present in areas where project work is proposed
PI	Wildlife Species and Habitat	Approximately 7 acres of forest habitat permanently lost; defer treatment in June to mitigate impacts to nesting birds
PI	Recreation	Scoping comments concerning Fred Burr Creek swimming hole.
PI	Public Safety	Scoping comments concerning increased traffic on Rumsey Road.

*Possible determinations:

NP = not present in the area impacted by the proposed or alternative actions

NI = present, but not affected to a degree that detailed analysis is required

PI = present and may be impacted to some degree. Will be analyzed in affected environment and environmental impacts. (NOTE: PI does not mean impacts are likely to be significant in any way).

Critical Elements found within the project area or those affected by the project are noted above. Analysis of pertinent critical elements is found below.

Aquatic Species and Habitat

Affected Environment

The Affected Environment for direct and indirect effects to fisheries focuses on the BLM-managed segment of Fred Burr Creek where road and bridge construction would occur if a Right of Way is granted. The BLM segment represents a ¼ mile stretch of the creek.

Fred Burr Creek is a 10 mile long perennial fish-bearing tributary to Flint Creek. The drainage has a long history of mining, logging, and livestock grazing. Fred Burr Creek contains elevated levels of metals, arsenic, lead, and mercury. In the area where road crossing is proposed, Fred Burr Creek is primarily an E-channel stream (highly sinuous and relatively narrow and deep). Banks are well-stabilized by grass except at an historic dispersed recreation site approximately 300 feet upstream from the bridge site. Here, historical recreation use from a swimming hole has eroded streambanks, resulted in a short segment of over-widened channel. Shrubs are sparse throughout the project area, consisting primarily of decadent willows. From the recreation site downstream to the bridge site, overstory vegetation consists of widely scattered lodgepole. In this area, the channel is not well-shaded.

Habitat for fishes in the area primarily consists of rearing habitat: deep water glides bordered by undercut banks. The streambed is dominated by small particles and sand, precluding spawning use. A small amount of cover exists among small pieces of woody debris accumulated in the channel. In the project area, Fred Burr Creek meets all of the Riparian Management Objectives

(RMOs) of the Inland Native Fish Strategy (INFISH) except for water quality and large woody debris.

Montana Fish Wildlife and Parks have detected bull, rainbow, brown, and westslope cutthroat trout in Fred Burr Creek although no formal population estimates have been conducted. Fish abundance appears to be low, likely due to poor water quality. In particular, bull trout are very rare and have been detected only in the two miles above the mouth. Snorkel surveys in 2002 failed to detect bull trout in the BLM-owned segment of Fred Burr Creek

Environmental Effects of the Proposed Action

Direct and Indirect Effects: The analysis area for direct and indirect effects to fisheries focuses on the BLM-managed segment of approximately ¼ mile of Fred Burr Creek.

There would be no direct effects to fishes in Fred Burr Creek because no work would be carried out in the wetted channel.

There would be few indirect effects to fishes in Fred Burr Creek because design features, mitigation and the Terms and Conditions (Appendix A) and Road Construction Standards (Appendix B) for the right-of-way grant would prevent degradation to habitat that would subsequently affect fish.

Indirect effects to fishes would occur if construction of the road and installation of the bridge results in increased recreation use at the site, and subsequent impacts to streamside vegetation. It is not possible to predict whether recreation would increase at the bridge site, but it is not likely because a more appealing site exists a short distance away offering shade, swimming, etc.

Cumulative Effects: Cumulative effects are "those effects on the environment that result from the incremental effect of the action when added to past, present and reasonably foreseeable future actions regardless of what agency (federal or nonfederal) or person undertakes such other actions." A variety of activities will occur on private lands adjacent to the Fred Burr Creek project area, including road and ski facility construction. However, the design features to be implemented for the project described in this EA would prevent direct and indirect effects to fishes at the project site. As a result, there would be no impacts to combine with activities elsewhere to create cumulative effects.

Environmental Effects of No Action

Under the No Action Alternative, no work would occur. There would thus be no direct, indirect, or cumulative effects.

Wildlife Species and Habitat

Affected Environment

Threatened and Endangered Species:

Gray Wolf (non-essential experimental population) – The proposed action area is located within the Central Idaho Wolf Recovery Area. Verified wolf packs are not established in the proposed action area. The Sapphire and Willow Creek Wolf Packs inhabit private and public lands west of Highway 1. (Sime et al., 2006).

Grizzly Bear (threatened) – Verified grizzly bear records are not known for the proposed action area. The proposed action area is not located in occupied grizzly bear habitat. The Northern Continental Divide Grizzly Bear Recovery Zone is located over 50 miles to the north. (Level 1 Team, 2003).

Canada Lynx (threatened) – Verified lynx records are not known for the proposed action area. The Fred Burr Lynx Analysis Unit was mapped in 2000 by the Beaverhead-Deerlodge National Forest. The Canada Lynx Conservation Agreement (2006) between the Forest Service and the Fish and Wildlife Service recognizes the Beaverhead-Deerlodge National Forest and adjacent lands as unoccupied lynx habitat.

Bald Eagle (threatened) – The bald eagle is a year-round resident. The Porter's Corner bald eagle nest is located 2.5 miles from the proposed action area. The nest has been active for more than three years. The proposed action area is located within Zone III of the nest and is considered forage habitat for the nesting pair. (Missoula Field Office Files).

Sensitive Species:

Fringed and Long-eared Myotis – Suitable habitat is present. Verified sightings occur in Granite County, but not in the proposed action area. Roosts and forages in forest areas.

Fisher – Suitable habitat is present. Verified sightings occur near Echo Lake, but not in the proposed action area. Inhabits riparian forests.

North American Wolverine – Suitable habitat is present. Verified sightings occur for the Anaconda Range, but not in the proposed action area. Inhabits mixed conifer forests.

Great-gray Owl – Suitable habitat is present. Verified sightings occur in Granite County, but not in the proposed action area. Inhabits late succession conifer forests.

Northern Goshawk – Suitable habitat is present. Verified sightings occur in Granite County, but not in the proposed action area. Inhabits late succession conifer forests.

Three-toed Woodpecker – Suitable habitat is present. Verified sightings occur in Granite County, but not in the proposed action area. Inhabits conifer forests.

Migratory Birds:

Suitable habitat is present. Roughly 40 migratory birds may inhabit the proposed action area from June through August representing four different nesting guilds: ground-nesting, shrub-nesting, tree-nesting, and snag-nesting.

Big Game:

The elk, white-tailed and mule deer, moose, mountain lion, and black bear may inhabit the proposed action area. Population objectives are currently being met. Open road densities exceed Fish, Wildlife, and Parks standards of 1 mi/mi². The proposed action area is winter range for elk, deer, and moose.

Environmental Effects of the Proposed Action

Threatened and Endangered Species:

Gray Wolf – No effect, verified wolf packs are not established in the proposed action area. ***Direct, indirect, and cumulative effects*** would not occur.

Grizzly Bear – No effect, the proposed action area is not considered occupied grizzly habitat. ***Direct, indirect, and cumulative effects*** would not occur.

Canada Lynx – No effect, the proposed action area is not considered occupied lynx habitat. ***Direct, indirect, and cumulative effects*** would not occur.

Bald Eagle – ***Direct and indirect effects*** may occur. Temporary displacement from potential forage habitat may occur during road construction. The proposed action area is within the 2.5 mile radius forage zone for the Porter's Corner bald eagle nest. ***Cumulative effects*** may occur, but are considered minor. The Porter's Corner nesting pair forages primarily along Flint Creek. The proposed federal action may affect, not likely to adversely affect the bald eagle.

Sensitive Species:

Fringed and Long-eared Myotis – ***Direct and indirect effects*** may occur, but are considered minor. These two bat species utilize snags for breeding and roosting habitat. Snags may be removed during right-of-way (r-o-w) clearing. Less than 10 acres of forest vegetation would be removed during r-o-w clearing. ***Cumulative effects*** may occur, but are considered minor.

Fisher – ***Direct and indirect effects*** may occur, but are considered minor. Temporary displacement may occur. Suitable habitat along Fred Burr Creek would have little impact. ***Cumulative effects*** may occur, but are considered minor.

North American Wolverine – *Direct and indirect effects* may occur, but are considered minor. Temporary displacement may occur. Suitable habitat along Fred Burr Creek would have little impact. *Cumulative effects* may occur, but are considered minor.

Great-gray Owl – *Direct and indirect effects* may occur, but are considered minor. Temporary displacement may occur. Nests have not been located. *Cumulative effects* may occur, but are considered minor.

Northern Goshawk – *Direct and indirect effects* may occur, but are considered minor. Temporary displacement may occur. Nests have not been located. *Cumulative effects* may occur, but are considered minor.

Three-toed Woodpecker – *Direct and indirect effects* may occur, but are considered minor. Temporary displacement may occur. Nests have not been located. *Cumulative effects* may occur, but are considered minor.

Migratory Birds:

Direct and indirect effects may occur, but are considered minor. Temporary displacement may occur and nests may be disturbed during project activity. Approximately 7 acres of habitat would be permanently impacted. *Cumulative effects* may occur, but are considered minor. Defer cutting trees in June to protect nesting migratory birds.

Big Game:

Direct and Indirect Effects may occur, and may have the potential to adversely affect big game. Displacement of big game would occur during harvest of trees associated with road construction. Open road density is above Fish, Wildlife, and Parks goal of 1 mile of road per square mile of habitat. Nearly one mile of new road would be constructed, which would increase open road density. The proposed action area is elk, deer, and moose winter range (Figure 3). The proposed open road with potentially heavy traffic may permanently displace big game from winter range.

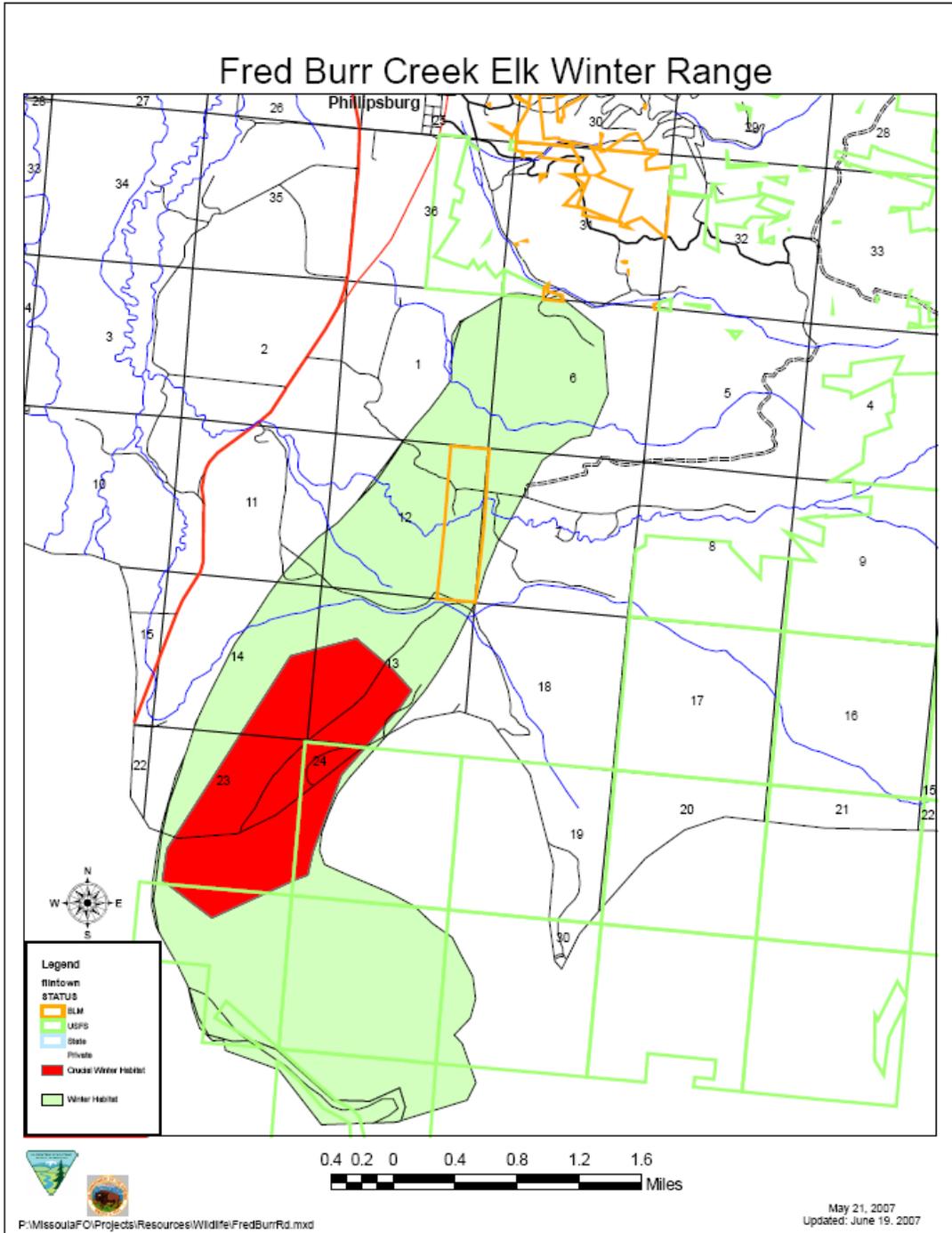


Figure 3

Cumulative Effects may occur, and may have the potential to adversely affect big game. Timber harvest, fragmented surrounding ownership patterns, residential and commercial development, and associated ski area development, in association with the proposed action, may permanently displace elk, deer, and moose. This EA incorporates by reference the cumulative effects noted in the Discovery Area Ski Area EIS from 2001.

Environmental Effects of No Action

Effects to wildlife would not be anticipated.

Recreation

Affected Environment

The stream crossing associated with this project across Fred Burr Creek is approximately 300 feet west of the Fred Burr Creek swimming hole. The swimming hole is frequently used by local residents in the summer. The area includes a small dock and fire ring and is currently accessible to vehicles.

Environmental Effects of the Proposed Action

Direct and Indirect Effects: Prevailing westerly winds coupled with day time up canyon winds, would blow road dust from the proposed road to the area of the popular swimming hole. The existing forest canopy will mitigate this impact to a limited degree. However, to insure that dust will not impact the recreation site, road design will need to incorporate dust abatement measures for the area immediately adjacent to the swimming hole.

There are 3 commonly used dust abatement options; paving the road on either side of the bridge, surfacing the same area with recycled asphalt and treating that same area with a dust abatement chemical such as magnesium chloride. All three will control road dust in the short term. They differ in how long the treatment remains effective and the level of maintenance needed to retain its dust abatement qualities. (Another option which exists to abate dust would be to seasonally close the road in the summer months. Granite County would have the authority to do this under terms of the grant.)

Paving: This option eliminates the dust issue for the life of the asphalt. Unlike the other two options, asphalt would not require regular maintenance in order to remain effective in controlling dust.

Recycled Asphalt: This option employs old, ground-up asphalt salvaged from other road repairs. Once it is laid on the road surface, vehicle traffic compacts the material creating a thin, pavement like surface. This hardened surface substantially reduces road dust, however, recycled asphalt would require periodic maintenance and the application of additional material to retain the quality and effectiveness of the surface in the long term.

Dust Abatement Chemicals: Chemical applications can be effective in controlling road dust. However, the chemical will lose its effectiveness over time. How long this treatment will last is a function of the amount of vehicle traffic and the composition of the road base material. This type of dust abatement does need periodic reapplication of the chemical in order to adequately control dust for the long term. While some of these chemicals are more environmentally benign than others, all are suitable for this application if applied correctly.

The design features and compliance measures to be implemented for the project described in this EA would prevent direct and indirect effects to recreation at the swimming hole adjacent to the proposed bridge.

Cumulative Effects: There are no impacts to combine with activities elsewhere to create cumulative effects.

Environmental Effects of No Action

Effects to recreation would not be anticipated.

Public Safety

Affected Environment

The proposed road connects the Rumsey Road with Echo Lake Road. Rumsey road is steep, narrow in places and has some very tight corners.

Environmental Effects of the Proposed Action

Direct Effects and Indirect Effects: The new road is estimated by Discovery Ski Area to have 100-200 cars per day during about 20 peak weekend days during the winter months. The existing Rumsey road would have to accommodate this increase in vehicle traffic. Additional attention may be required by the county to address winter conditions on Rumsey road.

Cumulative Effects: There would be no cumulative effects to public safety.

Environmental Effects of No Action

Effects to public safety would not be anticipated.

PERSONS/AGENCIES CONSULTED

This project proposal was published in the U.S. Department of Interior, BLM, Western Montana Zone, FY 2006 NEPA Log, located on the Montana BLM State Office website at:

<http://www.mt.blm.gov/nepalogs/mifo/nepalog06.pdf>.

A scoping notice was mailed to 80 agencies, groups and individuals seeking input on issues involved with this proposal. The comments received in response to the scoping notice have been considered in the preparation of this EA.

List of Persons, Agencies and Organizations Consulted

<i>Name</i>	<i>Purpose & Authorities for Consultation or Coordination</i>	<i>Findings & Conclusions</i>
<i>U.S. Fish & Wildlife Service (US FWS)</i>	<i>Information on Consultation, under Section 7 of the</i>	<i>In progress.</i>

	<i>Endangered Species Act (16 USC 1531)</i>	
<i>U.S. Forest Service, Beaverhead-Deerlodge National Forest, Pintler Ranger District</i>	<i>Coordinated with Forest as project area is tiered to a 2001 EIS for the Discovery Ski Area expansion.</i>	<i>USFS supported the proposal in written comments provided during scoping.</i>
<i>Montana Department of Fish, Wildlife and Parks</i>	<i>SPA 124 Permit for bridge crossing at Fred Burr Creek</i>	<i>In progress.</i>

Preparers/Reviewers

Wildlife Biologist	Jim Sparks
Fisheries Specialist	Jo Christiansen
Archaeologist	Maria Craig
Recreation Planner	Dick Fichtler
Hydrologist	Steve Flood
Realty Specialist	Jim Ledger
Asst Field Manager	Chuck Bridgeman

APPENDIX A

TERMS AND CONDITIONS

1. The Bureau of Land Management (BLM) reserves the right to grant additional rights-of-way or permits for compatible uses on, over, under, or adjacent to this grant.
2. This grant shall be deemed a right to construct, operate, use and maintain a county road over the lands of the United States described herein.
3. The holder shall conduct all activities associated with the construction, operation and maintenance of the right-of-way within the authorized limits of the right-of-way.
4. Road(s) and facilities shall be constructed according to Road Construction Standards.
5. The holder shall maintain the road authorized in this grant in a safe, usable condition as directed by the BLM. A regular maintenance program shall include, but is not limited to, blading, ditching, culvert cleaning, and surface replacement as needed.
6. No signs or advertising devices shall be placed on the right-of-way or on adjacent public lands, except those posted by or at the direction of the BLM.
7. 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 BLM and/or local authorities for acceptable weed control methods within the limits imposed in the grant stipulations.
8. The BLM may at any time inspect the onsite construction, maintenance, and operation of holder's project. Officials of State and other Federal agencies may also inspect such activities if necessary to the performance of official duties relating to the project. The right to inspect includes the right to use private roads belonging to holder in order to reach the site.
9. The 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.
10. If an archaeological resource (historic or prehistoric site or object) is discovered during project operations, holder shall immediately stop all operations in the area and notify the BLM. If the discovery includes human remains, funerary items, sacred objects, or objects of cultural patrimony, holder must immediately notify the BLM by telephone, followed by a written confirmation (certified mail recommended). Operations shall remain suspended until a written notice to proceed is issued by the BLM. An evaluation of the resource will be made by the BLM to determine appropriate mitigation actions. Proper mitigation measures will be made by the BLM after consulting with holder. The holder shall be responsible for evaluation and mitigation costs. All archaeological materials shall remain the property of the United States.

11. The holder shall remove or dispose of all waste in a manner consistent with federal, state, and local laws. Waste means all discarded matter, including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products and equipment.
12. The United States will not be liable for any damage which may occur to facilities authorized by this grant, as a result of fire, wind, or other natural disasters, or as a result of its management of the public lands. If it becomes necessary to move, relocate, or replace holder's facilities because of federal land management activities, holder shall bear the costs incident thereto.
13. Pesticide use shall comply with applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to pesticide use, holder shall obtain from the BLM written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the BLM. Emergency pesticide use shall be approved in writing by the BLM prior to such use.
14. The holder shall comply with Toxic Substances Control Act of 1976, as amended, (15 U.S.C. 2601 et seq (1982)), regarding any toxic substances that are used, generated, or stored on the right-of-way or in facilities authorized by this grant (40 CFR 702-799, especially see polychlorinated biphenyls, 40 CFR 761). Any release (leaks, spills, etc.) of toxic substances in excess of the reportable quantity established by 40 CFR 117, shall be reported as required by the Comprehensive Environmental Response, Compensation, and Liability Act, section 102b. A copy of any report required or requested by any federal or state agency as a result of a reportable release of toxic substances shall be furnished concurrently to the BLM.
15. The holder agrees to indemnify the United States against any liability arising from the release or threatened release of any hazardous substance or hazardous waste (as defined in Comprehensive Environmental Response Compensation & Liability Act of 1980, 42 U.S.C. 9601, et seq., or the Resource Conservation & Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to holder's activity on the right-of-way). This agreement applies to releases caused by holder, its agents or unrelated third parties.

APPENDIX B

ROAD CONSTRUCTION STANDARDS

1. The holder shall submit a plan of development that describes in detail the construction, operation and maintenance of the right-of-way and its associated improvements and/or facilities. The plan shall include drawings in sufficient detail to enable a complete evaluation of all proposed structures and facilities to ensure compliance with the requirements of the grant and to ensure visual compatibility with the site. These drawings shall be construction documents and must show dimensions, materials, finishes, etc. to demonstrate compliance with all requirements. The plans will be reviewed and, if appropriate, modified and approved by the BLM. An approved plan of development shall be made a part of the right-of-way grant.

Minimum design standards for the road shall be the standards for a local road as stated in the "Granite County Road Standards".

Minimum design standards for the bridge across Fred Burr Creek shall be the "Granite County Bridge Standards", as adopted 12/4/2001, except that the minimum design flood shall be the 100 year event.

2. The holder shall not initiate any construction or other surface disturbing activities on the right-of-way without the prior written authorization of the BLM. Such authorization shall be a written notice to proceed issued by the BLM. Any notice to proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described.

3. The BLM may suspend or terminate in whole, or in part, any notice to proceed which has been issued when unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.

4. The holder shall designate a representative(s) who shall have authority to act upon and to implement instructions from the BLM. The holder's representative shall be available for communication with the BLM within a reasonable time when construction or other surface disturbing activities are underway.

5. The holder shall contact the BLM at least 10 days prior to the anticipated start of construction and/or any surface disturbing activities. The BLM may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant including the plan(s) of development.

6. The holder shall enter into a timber sale contract with the Bureau prior to the cutting of any timber on the right-of-way.

7. The holder shall survey and clearly mark the centerline and exterior limits of cuts and fills. Right-of-way clearing shall be limited to six feet beyond cut stakes and six feet beyond fill stakes.
8. Prior to the start of construction, all heavy equipment shall be power washed to remove noxious weed seed.
9. Excavation associated with constructing the road prism is expected to balance with embankment requirements adjusted for compaction. However, if excavated quantities are generated in excess of embankment requirements, this excess material shall be wasted in areas away from stream influence zones as designated by the BLM.
10. All right-of-way clearing and grubbing debris resulting from road construction shall be completely disposed of by burning and/or removal from the site. Clearing and grubbing debris shall not be placed or permitted to remain in or under any embankment sections. Burn bays shall be located at least 30 feet from live trees prior to burning. Holder shall be responsible for implementation and monitoring of all right-of-way slash disposal as directed by the Authorized Officer.
11. The holder shall seed all disturbed areas, using an agreed upon method suitable for the location, immediately upon completion of construction with a seed mixture and in amounts as directed by the BLM. 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. Commercial seed shall be either certified or registered seed. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the BLM upon evaluation after the end of the first growing season. All seed used shall meet all requirements of the Federal Seed Act (7 U.S.C., §551-1610) and the seed laws and noxious weed laws of Montana. Evidence of the seed certification shall be furnished at the request of the BLM.