FINDING OF NO SIGNIFICANT IMPACT (FONSI)

ROW WYW-165219

DOI-BLM-WY-R01-2011-0045-EA

BLM

Worland Field Office, Wind River/Bighorn Basin District, Wyoming

May 2011

FINDING OF NO SIGNIFICANT IMPACT
Environmental Assessment
DOI-BLM-WY-R01-2011-0045-EA

Gooseberry Creek Ranch, LLC
Access Road Right-of-way Application
WYW-165219

Bases on the analysis of potential environmental impacts contained in the attached environmental assessment, and considering the significance criteria in 40 CFR § 1508.27, I have determined that the selected action will not have a significant effect on the human environment. An environmental impact statement is therefore not required.

Don Krumpo
Authorized Officer

5-19-2011
Date

DECISION RECORD MEMORANDUM

ROW WYW-165219

DOI-BLM-WY-R01-2011-0045-EA

BLM

Worland Field Office, Wind River/Bighorn Basin District, Wyoming

May 2011

DECISION RECORD
Environmental Assessment
DOI-BLM-WY-R01-2011-0045-EA
Gooseberry Creek Ranch, LLC
Right-of-way Application
WYW-165219

It is my decision to approve the Right-of-way as described as Alternative 2 of Environmental Assessment No. DOI-BLM-WY-R01-2011-0045-EA, and to include those measures proposed by Gooseberry Creek Ranch LLC Application for ROW. This authorization will be granted subject to the Terms and Conditions as attached.

Authorities: Title V of The Federal Land and Policy Management Act of 1976, as Amended; 43 CFR § 2800.

Compliance and Monitoring: Designated Bureau of Land Management personnel will monitor and review project operations as needed to ensure that mitigation measures are in compliance with the terms and conditions.

Terms / Conditions / Stipulations: Attached.

PLAN CONFORMANCE AND CONSISTENCY:

The proposed action and alternatives have been reviewed and found to be in conformance with one or more of the following BLM Land Use Plans and the associated decision:

Name of Plan: Grass Creek Management Plan **Date Approved:** September 1998
This plan has been reviewed to determine if the proposed action conforms to the land use plan as required by 43 CFR § 1610.5. The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision: GCRMP ROD pg 12; "The planning area will be open for rights-of-way development. Proposals will be addressed on an individual basis with emphases on avoiding certain conflict or sensitive areas."

This proposal would be within an area available for linear right-of-way generally open to rights-of-way, and thus it would be in conformance with the land use plan.

Alternatives Considered:

The Environmental Assessment (EA) for the Project considered three alternatives. Alternative 1, the "Proposed Action" alternative, assessed and disclosed the projected effects of the applicant's proposal as detailed in the "Proposed Actions" portion of the environmental assessment.

The "Proposed Action with Conditions of Approval" (2) alternative assessed the proposed action, BLM staff specialists input, and the observations made at the field inspection. It was felt that certain Conditions of Approval were necessary and proper to provide adequate protection of surface and subsurface. For the purpose of analysis, the Terms and Conditions are part of this alternative.

The "No Action" (3) alternative assessed the effects of not implementing any portion of the proposal. Under the No Action alternative, the WFO analyzed the effects of a denial of any further development associated with this project. This alternative provides a benchmark, enabling the decision-maker to compare the magnitude of the environmental effects of the alternatives.

An alternative including the use of alternate surface locations was considered, but not analyzed further.

Rational for Decision:

Alternative 2 was chosen as being the most environmentally sound alternative.

This decision is in conformance with the Grass Creek Resource Management Plan.

Terms and Conditions necessary for this action are attached and are considered a part of this approval.

Appeals:

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, your notice of appeal must be filed in this office (BLM, Worland Field Office, P. O. Box 119, 101 S. 23rd St., Worland, WY 82401) within 30 days of the date that notice of this decision. The appellant has the burden of proof 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.

Don Krump
Authorized Officer

5-19-2011
Date

Attachments—
DOI-BLM-WY-R01-2011-0045-EA
Terms and Conditions
Map
Photos

ENVIRONMENTAL ASSESSMENT

ROW WYW-165219

DOI-BLM-WY-R01-2011-0045-EA

BLM

Worland Field Office, Wind River/Bighorn Basin District, Wyoming

May 2011

CHAPTER I
INTRODUCTION AND NEED FOR THE PROPOSED ACTION

INTRODUCTION

Gooseberry Creek Ranch LLC has requested a right-of-way across public land located in 6th PM, Washakie County, Wyoming, T. 47 N., R. 96 W., sec. 30, lot 18. The proposed action will provide year around legal access and maintenance of the road for a residence, irrigated meadows and pasture land, all located on private land.

PURPOSE AND NEED FOR THE PROPOSED ACTION

The purpose of the proposed action is to provide legal access across public land. The need for the action is established by the Bureau of Land Management's (BLM) responsibility under the Federal Land and Policy Management Act of 1976, as Amended (FLPMA).

Decision to be made: The BLM will decide whether or not to grant the right-of-way, and if so, under what terms and conditions.

CONFORMANCE WITH BLM LAND USE PLAN

Name of Plan: Grass Creek Management Plan **Date Approved:** September 1998
This plan has been reviewed to determine if the proposed action conforms to the land use plan as required by 43 CFR § 1610.5. The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision: GCRMP ROD pg 12; "The planning area will be open for rights-of-way development. Proposals will be addressed on an individual basis with emphases on avoiding certain conflict or sensitive areas."

This proposal would be within an area available for linear right-of-way generally open to rights-of-way, and thus it would be in conformance with the land use plan.

RELATIONSHIPS TO STATUTES, REGULATIONS AND OTHER PLANS

Title V of FLPMA

43 Code of Federal Regulations § 2800.

Other relevant guidance includes BLM Manual 2800.

CHAPTER 2
DESCRIPTION OF ALTERNATIVES

INTRODUCTION

Alternative 1, the "Proposed Action" alternative, assessed and disclosed the projected effects of the applicant's proposal as detailed in the "Proposed Action" portion of the environmental assessment.

The "Proposed Action" with Conditions of Approval" (2) alternative assessed the proposed action, BLM staff specialists input, and the observations made at the field inspection. It was felt that certain Condition of Approval were necessary and proper to provide adequate protection of the surface and subsurface. For the purpose of analysis, the Term and Conditions are part of this alternative.

The "No Action" (3) alternative assessed the effects of not implementing any portion of the proposal. Under the No Action Alternative, the WFO analyzed the effects of a denial of any further development associated with this project. This alternative provides a benchmark, enabling the decision-maker to compare the magnitude of the environmental effects of the alternatives.

PROPOSED ACTION

Gooseberry Creek Ranch, LLC has applied for a right-of-way for use and maintenance of an existing access road across public land to provide legal access to a residence, irrigated meadows and pasture land located on deeded land. The access road is located approximately 24 miles southwest of Worland, Wyoming. The right-of-way involves 0.500 acres more or less of public land being 525- feet in length and 40- feet in width. The right-of-way will be granted for a term of 30 years with right of renewal.

PROPOSED ACTION WITH TERMS AND CONDITIONS

Based on BLM Staff specialist input, it was felt that certain Terms and Conditions were necessary and proper to provide adequate protection of the surface.

NO ACTION

The No Action Alternative would be to deny the proposed right-of-way application. With this alternative BLM would not approve the request for use and maintenance of the access road and the applicant would not be allowed legal access to deeded lands.

CHAPTER 3
AFFECTED ENVIRONMENT

The affected environment was considered and analyzed by an interdisciplinary team.

Cultural:

Cultural - A Class III Cultural Inventory was not necessary. It was determined that human activity within the last 50 years has created a new land surface to such an extent as to eradicate traces of cultural properties.

Soils:

Soils – The soils along the existing road and proposed right-of-way are deep and well drained. Sandy loam textures on the surface and throughout the soil profile and gentile slopes (0-2 percent), make these soils well suited to this roadway. There is virtually no runoff and erosion along the existing road. Sandy loam textures are somewhat susceptible to wind erosion.

Recreation:

Recreation - The project area is managed as a Special Recreation Management Area (SRMA), where management to promote and sustain desired recreational opportunities, experiences, settings, and beneficial outcomes are a priority. The Grass Creek RMP specifically states the following within the Recreation and Lands and Realty sections, "Special Recreation Management Areas are designated on BLM-administered public lands in the Absaroka Mountain foothills, Badlands, and Bighorn River areas. All other public lands will be managed as an Extensive Recreation Management Area." The natural recreational resources consist of a vividly colorful and erratic and irregular landscape composed of hoodoos, deeply incised drainages, and dominant mesas and buttes. This area is known for its spectacular scenic values, wilderness characteristics, the 15-Mile wild horse herd, and large tracts of public lands available for semi-primitive motorized and non-motorized recreational opportunities. Such opportunities and activities observed in the SRMA include hunting, camping, hiking, wildlife and wild horse viewing, rock hounding, sightseeing, and photography. An adequate system of access routes creates an exciting and enjoyable motorized touring circuit within the SRMA. Recreational opportunities are limited within the project area because most of the project area is within the highway corridor, and within proximity to private lands. All recreational use is observed north of State highway 431. Travel and transportation management within the project area limits motorized use to existing roads and trails.

LWC - Wilderness characteristics are resource values that include naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation. Areas evaluated for wilderness characteristics generally occur in undeveloped locations 5,000 contiguous acres and greater, or of sufficient size to be practical to manage for these characteristics. The BLM Land Use Planning Handbook (H.1601-1) states that the BLM must consider the management of lands with wilderness characteristics during the land use planning process. The criteria used to identify these lands are essentially the same criteria used for

determining wilderness characteristics for wilderness study areas (WSA). However, the authority set forth in Section 603(a) of FLPMA to complete the three part wilderness review process (inventory, study, and report to Congress) expired on October 21, 1993; therefore, FLPMA does not apply to new WSA proposals and consideration of new WSA proposals on BLM-administered public lands is no longer valid.

As mandated by FLPMA, Section 201, the BLM is still required to maintain an inventory of BLM-administered public lands to determine whether they possess wilderness characteristics. Secretarial Order 3310, passed on December 24, 2010, required the BLM to inventory all public lands for wilderness characteristics and manage those containing wilderness characteristics to be managed as a Lands with Wilderness Characteristics (LWC). Land use planning, or RMP amendments will then determine whether an LWC will be designated as a Wild Land. Recent inventories have found BLM-administered public lands that are within proximity to the immediate project area absent of wilderness characteristics.

VRM - The project location is located within BLM-administered public lands managed under VRM Class III objectives, whereas BLM-administered public lands located north of the project area are managed under VRM Class II objectives.

Class III objectives are 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 should repeat the basic elements found in the predominant natural features of the characteristic landscape.

Weeds:

Weeds – No known noxious weed infestations at the road location.

Hydrology:

Hydrology - Existing road is located in the Gooseberry Creek Watershed.

Paleontology:

Paleontological - Proposed project is located within Quaternary deposits with a PFYC (Potential Fossil Yield Classification) rating of 2 or low. This means the project area has a low sensitivity for paleontological resources. Existing disturbance has eradicated the potential for intact significant localities.

Wildlife:

Wildlife - The wildlife habitat within the proposed ROW area consists of a relatively flat to rolling bench, with the dominate vegetation being Greasewood, Wyoming Big sagebrush, and annual grasses. The entire area around the proposed ROW is mapped as crucial winter range for mule deer, although mule deer could be expected here throughout the year. This area likely

provides some degree of breeding and nesting habitat to sagebrush obligate species like the sage thrasher. Numerous other small mammals, predators, passerines, and raptors also inhabit the area and utilize the area, some year long. There are no known threatened or endangered wildlife species within the proposed project area, but the sage thrasher is a BLM sensitive species.

CHAPTER 4
ENVIRONMENTAL IMPACTS

PROPOSED ACTION
Alternative 1
Cultural:

Cultural - Heavy existing disturbance has removed the possibility for intact cultural properties. No additional consequences would be expected under this alternative.

Soils:

Soils - No impacts are anticipated to the soil and watershed resource as a result of issuing this right-of-way. Impacts of the existing road are minimal. This action would allow the permit holder to conduct routine maintenance which could further reduce current impacts; most notably minor windblown soil.

Recreation:

Recreation - The proposed action is located in an area which receives minimal recreational use. Most if not all recreational use is observed in the BLM-administered public lands located north of the project area. Impacts to recreation from the proposed action are negligible.

LWC - The project area has been inventoried as absent of wilderness characteristics. The proposed action will not impact wilderness resources.

VRM - The proposed action will accentuate contrasting elements of line, form, color, and texture against the surrounding natural elements, but will not introduce strong contrasting elements against the surrounding elements. The immediate project area contains many contrasting elements of line, form, color, and texture exhibited from State Highway 431, fence lines, the existing road, and facilities. The proposed action will not impact VRM.

Weeds:

Weeds – Risk of introduction of weed seeds on maintenance equipment.

Hydrology:

Hydrology - None as this is an existing disturbance.

Paleontology:

Paleontological - Existing disturbance has eradicated the potential for intact significant localities. No additional consequences would be expected under this alternative.

Wildlife:

Wildlife - Wintering mule deer, as well as breeding and nesting sagebrush obligates like the sage thrasher will likely not be displaced by the proposed ROW. Primarily because species have most likely habituated to the existing ROW traffic on this access road and the neighboring Gooseberry Highway as well. Because of the proximity of this proposed ROW to existing and ongoing disturbance from the Gooseberry Highway, seasonal stipulations for wintering big game would not be use full and therefore are not recommended.

PROPOSED ACTION WITH CONDITIONS OF APPROVAL
Alternative 2

Cultural:

Cultural - No additional consequences would be expected under this alternative. The project authorization is recommended with standard stipulations included under Terms and Conditions.

Soils:

Soils - No additional Conditions of Approval are being proposed for this action. Impacts would be the same as the Proposed Action.

Recreation:

Recreation - Impacts to Recreation will be the same as those in Alternative 1.

LWCs - Impacts to will be the same as those in Alternative 1.

VRM - Impacts to will be the same as those in Alternative 1.

Weeds:

Weeds – Risk of introduction of weed seeds on maintenance equipment.

Hydrology:

Hydrology - None as this is an existing disturbance.

Paleontology:

Paleontological - No additional consequences would be expected under this alternative. The project authorization is recommended with standard stipulations included under the Terms and Conditions.

Wildlife:

Wildlife - Wintering mule deer, as well as breeding and nesting sagebrush obligates like the sage thrasher will likely not be displaced by the proposed ROW. Primarily because species have most likely habituated to the existing ROW traffic on this access road and the neighboring Gooseberry Highway as well. Because of the proximity of this proposed ROW to existing and ongoing disturbance from the Gooseberry Highway, seasonal stipulations for wintering big game would not be use full and therefore are not recommended.

NO ACTION
Alternative 3

Cultural:

Cultural - Under the No Action Alternative, the development of the proposed Action would not occur. No resulting effects on cultural resources would be expected to occur beyond the current situation.

Soils:

Soils - If the right-of way were not issued, the road would continue to be used. The opportunity for routine maintenance and the resulting benefits to the soil resource, primarily reduction in windblown soil, would be lost.

Recreation:

Recreation - The development of the proposed Action would not occur. No adverse impacts to recreation would be expected beyond the current situation.

LWCs - The development of the proposed Action would not occur. No adverse impacts to LWCs would be expected beyond the current situation.

VRM - The development of the proposed Action would not occur. No adverse impacts to VRM would be expected beyond the current situation.

Weeds:

Weeds – No risk of introduction of weed seeds on maintenance equipment.

Hydrology:

Hydrology – No effect.

Paleontology:

Paleontological - The development of the proposed Action would not occur. No resulting effects on paleontological localities would be expected to occur beyond the current situation.

Wildlife:

Wildlife - Under the No Action Alternative, the proposed ROW will not be authorized, but existing disturbances from Gooseberry Highway and most likely this proposed access road as well, will continue to occur, and therefore no anticipated change in resulting effects on wildlife resources would be expected to occur beyond the current situation.

CUMULATIVE IMPACTS

Continued use of the existing road by the applicant will not lead to any additional impacts.

CHAPTER 5
PERSONS, GROUPS, AND AGENCIES CONSULTED

Other Persons/Agencies Consulted
David Slover, Applicant

List of Preparers

Table 5.1 List of Preparers

BLM Preparers

Name	Title	Responsible for the Following Section(s) of this Document
Marit Bovee	Archaeologist	Cultural/Paleontological
Karen Hepp	Range Management Specialist	Threatened and Endangered Plant Species
Steve Kiracofe	Soil Scientist	Soils
Paul Rau	Recreation Specialist	Recreation/LWC/VRM
CJ Grimes	NRS	Weeds
Jared Dalebout	Hydrologist	Hydrology
Tim Stephens	Wildlife Biologist	Wildlife
Carol Sheaff	Realty Specialist	Lands

Caleb McClain

Reviewer (Environmental Coordinator)

Terms and Conditions

The following terms and conditions of approval are in addition to standard terms and conditions associated with the authorization of right-of-way grant WYW-165219

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

The holder shall ensure equipment has been thoroughly cleaned prior to Maintenance work, especially if it has been used in an infested area. Use only weed free gravel. Monitor regularly for presence of noxious weeds, if any are detected treat according to BLM policy.

The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during construction, the operator is to immediately stop work that might further disturb such materials, and contact the authorized officer (AO). Within five working days the AO will inform the operator as to:

-whether the material appears eligible for the National Register of Historic Places;

-the mitigation measures the operator will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,

-a timeframe for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction measures.

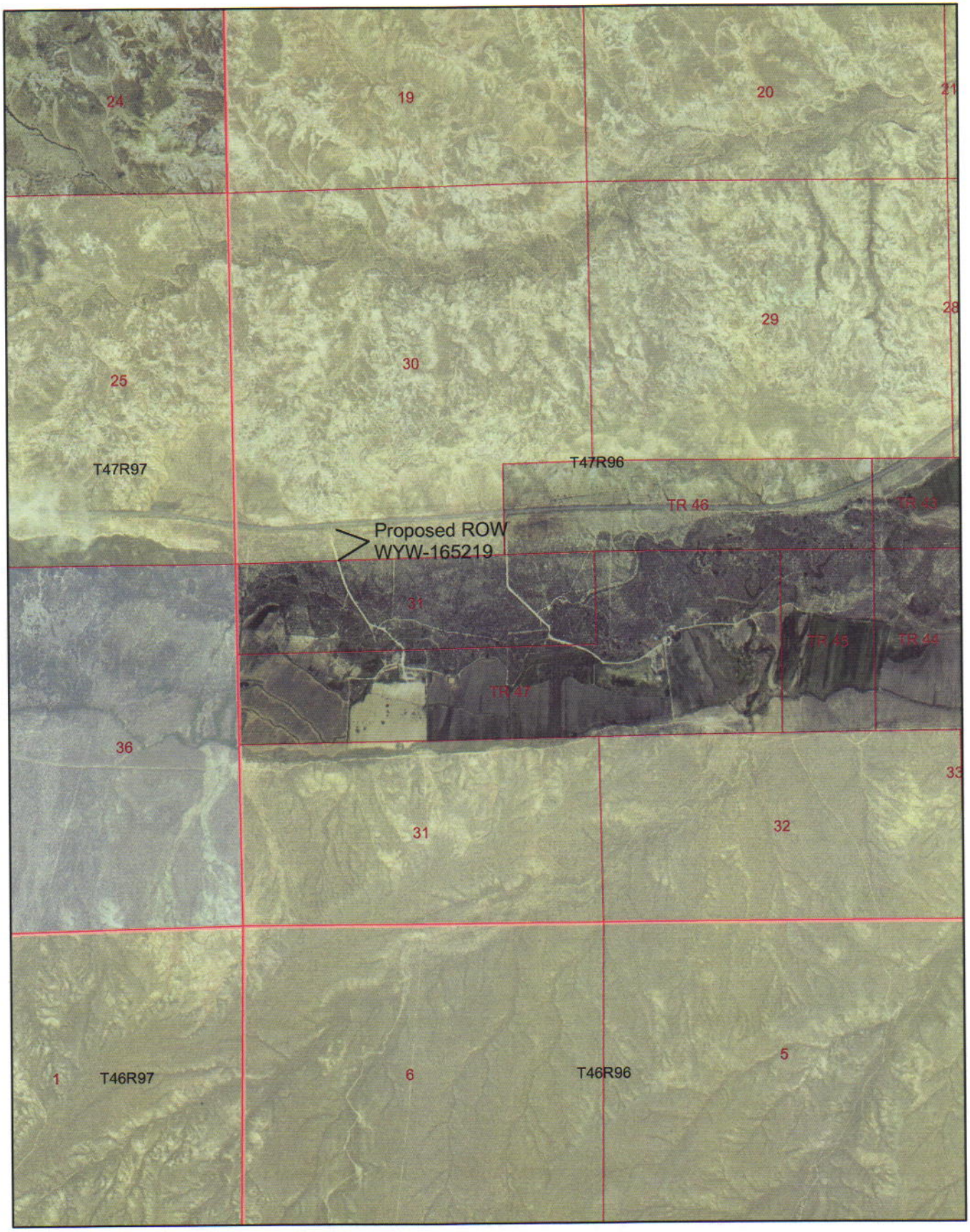
The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing paleontological localities, or for collecting vertebrate fossils. If paleontological materials are uncovered during operations, the operator is to immediately stop work that might further disturb such materials, and contact the authorized officer (AO).

Within five (5) working days the AO will evaluate the discoveries and take necessary actions to protect or remove the resource. Decisions regarding the appropriate measures to mitigate effects to such resources will be made in consultation with the operator

The Authorized Officer may add additional conditions of approval to protect the resources, if conditions require it. The operator shall comply with applicable laws and regulations.

Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

WYW-165219
Access Road ROW
Gooseberry Creek Ranch LLC



T. 47 N., R. 96 W., sec. 30, lot 18.

EXHIBIT A
WYW-165219
May 18, 2011
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