



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Arcata Field Office
1695 Heindon Road
Arcata, CA 95521-4573
www.blm.gov/office/arcata-field-office

June 7, 2023

In Reply Refer To:

CACA 059960
2800 (CA330)P

CERTIFIED – RETURN RECEIPT REQUESTED
7022 2410 0003 0435 5620

DECISION

Robert McGuiness
1845 S Street
Eureka, CA 95501

: Grant Issued
: Right-of-Way Processing
: Type: 281001

Right-of-Way Grant (CACA 059960) Issued
Rental Determined
Monitoring Fee Determined

Enclosed is a copy of your right-of-way (ROW) grant serial number (CACA 059960) which authorizes the right to construct, operate, maintain, and terminate a road right-of-way along the Larabee Road.

The advance rental for the ROW was determined to be \$264.03 for the period from June 1, 2023 to December 31, 2023. BLM has received your advance rental for this period.

The monitoring fee for this ROW is a Category 4, which is \$ 1,393. BLM has received your monitoring fee.

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 (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 you wish to file a petition pursuant to regulations at (43 CFR 2801.10 or 43 CFR 2881.10) for a stay 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 in 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 regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any right-of-way related questions, please contact Clara Sander-McDonald, Realty Specialist at (707) 672-6334.

Sincerely,



Collin Ewing
Field Manager

Enclosures

Grant -Signed
Invoice- Rent and Cost Recovery

FORM 2800-14
(August 1985)

Issuing Office
ARCATA FIELD OFFICE
1695 Heindon Road
Arcata, CA 95521-4573

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER CACA 059960

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

Robert McGuiness
1845 S Street
Eureka, CA 95501

receives a right to use and maintain a road right-of-way on the road known as the Larabee Butte Road in the area known as Larabee Buttes in Humboldt County, California, more particularly described as follows:

Humboldt Meridian, California

- T. 1 N., R. 4 E.,
sec. 14, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
sec. 21, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
sec. 22, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
sec. 23, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
sec. 27, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

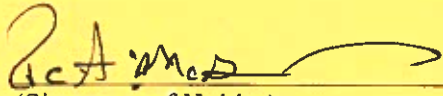
The area within non-Federal lands is described as a perpetual access road easement on and over the described real property, as recorded in Book 917, Page 337 of Official Records of Humboldt County, State of California, the strip of land being 15 feet on each side of the described centerline in said document.

- b. The right-of-way granted herein is approximately 15,840 ft (3 miles) in length and 15 feet wide and contains approximately 5 acres.

- c. This instrument shall terminate on December 31, 2053, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
 - d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the Authorized Officer deems necessary to protect the public interest.
 - e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the Holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.
3. Rental:
- For and in consideration of the rights granted, the Holder agrees to annually pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided however, that the rental may be adjusted by the authorized officer, whenever necessary to reflect changes in the fair market value as determined by the application of sound business management principals, and so far, as practicable and feasible and in accordance with comparable commercial practices.
4. Terms and Conditions:
- a. This grant or permit is issued subject to the Holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and 2880.
 - b. Upon termination by the authorized officer, all improvements shall be removed from the public land within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as direct by the authorized officer.
 - c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the Authorized Officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the Authorized Officer.
 - d. The Stipulations (Exhibit A), Maps (Exhibit B) attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
 - e. Failure of the Holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.

f. The Holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

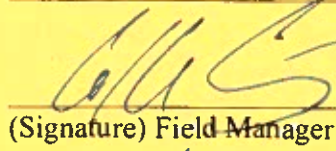
IN WITNESS WHEREOF, the undersigned agrees to the terms and conditions of this right-of-way grant or permit.



(Signature of Holder)

(Title)

(Date)



(Signature) Field Manager

6/12/23

(Effective Date of Grant)

Exhibit A- Stipulations Road Right-of-Way- Hauling and Legal Access

Notifications

1. Holder shall arrange a site visit with BLM Authorized Officer 30 days prior to timber hauling to discuss Larabee Butte Road conditions.
2. Upon completion of seasonal timber hauling operations and post-hauling maintenance and repairs, the BLM Authorized Officer shall be notified 7 days prior to the removal of road maintenance equipment for the final road inspection. Should Holder's road maintenance equipment not be available at the site for additional required work, it will be the Holder's responsibility to return the necessary equipment to the site at Holder's expense. Call BLM Arcata Field Office at (707) 825-2300 to schedule an inspection.
3. Holder shall designate a representative who shall have the authority to act upon and to implement instructions from the Authorized Officer. Holder's representative(s) shall be available for communication with the Authorized Officer when construction or other surface disturbing activities are underway.

General Stipulations for both Hauling and Residential Use

2. 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. Any new routing or road construction is specifically prohibited unless the right-of-way is amended in writing by the Authorized Officer.
3. This right-of-way provides ingress/egress to private property by Holder or his tenant for timber hauling purposes and residential access.
4. Holder shall permit free and unrestricted public access to and upon the right-of-way for all lawful purposes except for those specific areas designated as restricted by the Authorized Officer to protect the public, wildlife, livestock, or facilities constructed within the right-of-way.
5. This right-of-way may be terminated if the BLM determines that the permit holder is manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled substance on the public lands described herein in violation of the Controlled Substances Act of 1970, 21 U.S.C. §801 *et seq.*

Stop-Work Conditions

1. The Authorized Officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his/her judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect public health and safety or to protect the environment.
2. No construction, routine maintenance or use 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 two inches deep, the soil shall be deemed too wet to adequately support the equipment.

Cultural Resources Protection

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by Holder, or any person working on his behalf, on public or Federal land within the right-of-way area 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. 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 Holder.
2. Any new surface disturbing activities, including maintenance, will require notification to the BLM, and may require a BLM approved cultural resource survey prior to the issuance of a notice to proceed for the activity. A cultural monitor may be required, at the discretion of BLM, during the surface disturbing activities.

Weed Abatement

In order to comply with Executive Order 13112, all vehicles, and heavy equipment (paying special attention to the body and undercarriage) shall be inspected for any attached invasive, nonnative weed seeds or other plant parts capable of reproduction or spread and be removed before entering BLM roadways or land.

Hazardous Materials

1. Holder will comply with all federal laws regarding toxic substances, including leaks and spills that may occur during operations.
2. Heavy equipment will be inspected daily by Holder, or designee, to check for leaks. Equipment that leaks lubricants or fuels will not be used until leaks are repaired. Fuel trucks (if used) and/or refueling will be done outside of riparian areas and stream crossings. A spill plan will be available to onsite personnel.
3. Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, *et seq.*, and/or the Resource Conservation and Recovery Act of 1976, 42 USC 6901, *et seq.*) on the right-of-way (unless the release is wholly unrelated to the right-of-way Holder's activity on the right-of-way.) This agreement applies without regard to whether a release is caused by Holder, its agent, or unrelated third parties.

Fire Control

During operation, use, maintenance of the right-of-way, during May 1 through November 30, all vehicles, gas- or diesel-powered equipment and flues shall be equipped with USDA approved spark arresters approved by the Authorized Officer.

Noise Reduction

During March 15 through July 9, while on BLM parcels, truck drivers will minimize noise by reducing speed to 15mph and not using jake brakes.

Vegetation Removal

1. Permission for cutting hazard trees will be done on a case-by-case basis. If hazard tree cutting is permitted, tree(s) cannot be moved from the site unless necessary to enable safe road use. If a hazard tree is moved, it shall only be moved to the extent necessary to enable safe road use and no further.
2. Brush disposal must be conducted in a manner so as not to harm riparian resources. Brush may not be piled within riparian areas or in roadside ditches.
3. Clearing shall be accomplished without mixing topsoil or subsoil with vegetation. Cleared vegetative materials shall be disposed of by lopping and scattering the material or as otherwise directed by the Authorized Officer. Should vegetation clearing require the cutting of merchantable trees within the ROW corridor, Holder shall purchase a vegetative material permit from the BLM for the cutting and removal of the trees.
4. Vegetation trimming or removal will be moved only to the extent necessary to provide for safe road use. Conifers exceeding 12 inches diameter will not be cut from riparian areas unless it is absolutely necessary for safe use of the road segment. If a conifer exceeding 12 inches diameter must be cut, it may not be moved from the riparian areas or stream corridor without review from a BLM fishery biologist or designee.

Road Repairs and Use - TIMBER HAULING ROAD USE

1. Prior to hauling, the Holder shall prepare the road, as necessary, to achieve a smooth running-surface. This includes blading, shaping and rocking existing potholed or rutted segments. Installed rock shall be shaped and compacted to achieve a free draining state.
2. All non-emergency road repairs will occur only when road conditions are not wet and when the chance of precipitation is minimal.
3. Holder shall keep culverts free of debris (rocks, sticks, or other material clogging the culvert).

4. Holder may initiate emergency repairs on the road if the road is blocked or unsafe to pass. Holder shall maintain the right-of-way in a safe, usable condition during hauling periods. A regular maintenance program shall include, but is not limited to, blading ditch clearing, culvert installation, and surfacing.
5. All timber hauling along Larabee Butte Road shall conform with California Forest Practice Rules, specifically those measures described in Section 923.6 - "Use of Logging Roads and Landings"
6. Hauling of timber on unsurfaced roads shall be limited to dry periods.
7. The Holder is required to post timber activity signs, or their equivalent, at the intersection of Hwy 36 and Larabee Butte Road during periods of hauling activity.
8. The Holder may not block public traffic along Larabee Butte Road for more than 10 minutes.
9. Holder shall remove slash and debris from roadways, ditches and landings during hauling operations.
10. Holder shall cut or trim trees and brush which obstructs vision or prevents the safe passage of traffic along Larabee Butte Road.
11. During hauling operations, Holder shall furnish and apply non-saline water for dust abatement and in sufficient quantities to prevent loss of surface fines. Holder shall comply with the National Marine Fisheries Service's 2001 Water Drafting Specifications (see end of Appendix A).

Specific repairs to be performed prior to hauling:

1. Replace deteriorated culvert at approximately mile post 2.5. This culvert is rusted through and is compromising the road driving surface. Culvert shall be replaced with a 24" aluminized steel, corrugated pipe with rock armoring at the inlet and outlet. Road surface through shall incorporate a critical dip with rock surfacing applied. Configuration shall be similar to existing setting unless a more appropriate installation is approved by the Authorized Officer.
2. Prior to, and during hauling, Holder shall identify poorly drained, and pot-holed segments of road to reshape and apply angular rock material to achieve better drainage. Proposed sites will be reviewed by the Authorizing Officer.
3. Holder shall perform preventive maintenance at the end hauling season. This includes removing ruts, potholes and other surface irregularities. Specifically, the requirements are:
 - a. Holder shall complete final maintenance and/or damage repairs on all roads used within fourteen (14) calendar days following the completion of hauling.
 - b. Holder shall perform final road maintenance only when weather or soil moisture conditions are suitable for normal maintenance equipment operations as determined by the Authorized Officer.
 - c. If final maintenance is delayed after the date required in this contract by adverse soil moisture or unsuitable equipment operating conditions, Holder will be notified by the Authorized Officer when

soil moisture and equipment operating conditions are suitable. The Holder shall then be required to complete final maintenance within (30) days.

d. At the completion of seasonal hauling operations, the road shall provide safe vehicular access to normal 2wd vehicles. The road shall be free of potholes, dusty segments, blocked ditches and be left in an otherwise free draining condition prior to the wet weather season.

Road Repairs and Use – RESIDENTIAL ACCESS

1. During non-hauling periods, Holder shall monitor roads conditions and maintain or repair road segments to allow for safe vehicular access to the residence.
2. Maintenance activities during this period include road grading, box scraping, application of angular rock and minor road reshaping to promote better stormwater runoff.
3. Holder shall keep culverts free of debris (rocks, sticks, or other material clogging the culvert).
4. Holder is encouraged to collaborate with other residents along Larabee Butte Road to form a Road Maintenance Association where road maintenance costs are shared among residents by term agreed to among the residents.

End-of-Season and End-of-Term

1. Prior to termination of the right-of-way, Holder shall contact the Authorized Officer to arrange a pre-termination conference.

Exhibit B- Map of the right-of-way

