

OWYHEE COUNTY RESOLUTION NO. 2011-21

RESOLUTION TO ESTABLISH THE *FINAL* GROUPING, AS WELL AS THE CRITERIA FOR THE GROUPING, FOR THE RIGHTS-OF-WAY UPON AND ACROSS LAND OWNED BY THE UNITED STATES OF AMERICA IN OUYHEE COUNTY

The following Resolution was considered and adopted by the Owyhee County, Idaho Board of Commissioners (hereafter the "Board") on this 12 day of September, 2011.

WHEREAS, by Owyhee County Resolution 11-01 enacted on January 4, 2011, the Board adopted a resolution to establish the group, as well as the criteria for the grouping, for rights-of-way upon and across land owned by the United States of America in Owyhee County;

WHEREAS, consistent with Owyhee County Resolution 11-01, the Board solicited and received comments from the public as to the proposed grouping, as well as the criteria for the grouping;

WHEREAS, consistent with Owyhee County Resolution 11-01, the Board had a public meeting on the 9th day of May, 2011, to solicit and receive further comments from the public as to the proposed group, as well as the criteria for the grouping;

WHEREAS, consistent with Owyhee County Resolution 11-01, the Board gave notice of such Resolution and of the opportunity to comment to the proposed grouping, as well as the proposed criteria for group, to the Idaho BLM State Office, Boise BLM District Office, Twin Falls BLM District Office, Owyhee BLM Field Office, Bruneau BLM Field Office, Four Rivers BLM Field Office, Jarbidge BLM Field Office, and the BLM Birds of Prey NCA Office, and the Board received *no comment* from the BLM or any of these Offices as to the proposed groups, or the proposed criteria for such groups;

WHEREAS, consistent with Owyhee County Resolution 11-01, the Board approved, determined, and established the following final groups as well as the criteria for such groups of the various rights-of-way by a verbal motion, second, and vote during the Board's May 23, 2011 regular Board Meeting:

WHEREAS, the Board deferred the completion of a County Resolution pursuant to the verbally approved, determined, and established final groups as well as the criteria for such groups until such time as a Designee of the Board could be selected to apply the criteria as provided for below in paragraph 2 of this Resolution and to make periodic reports to the Board as provided for below in paragraph 3 of this Resolution:

WHEREAS, consistent with Owyhee County Resolution 11-01, and following the Board's verbal approval, determination, and establishment of the final groups as well as the criteria for such groups, the Board provided written notice, on May 23, 2011, of the final groups as well as the criteria for such groups to BLM State Director Steven Ellis,

Boise District Manager Aden Seidlitz, Twin Falls District Manager Bill Baker, Acting Owyhee Field Manager Steve Jirik, Bruneau Field Manager Arnold Pike, Birds of Prey NCA Manager Patricia Roller-Burkhardt, Jarbidge Field Manager Richard VanderVoet, and Four Rivers Field Manager Terry Humphrey to apply in the BLM's Travel Management Plan process, as initiated by the BLM Boise District letter to the "Interested Public" dated October 18, 2010. BLM allowed the Board until June 1, 2011, to tender such groups, including the criteria for such groups, to the BLM:

1. NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Board approves, determines and establishes the following final groups, as well as the criteria for such groups, of the various rights-of-way (aka "roads, trails, and ways") that are shown on United States Department of the Interior Geological Survey Maps No. 1 through 161 and referenced in Owyhee County Resolution 94-03 that are on lands owned by the United States of America:

A. Rights-of-Way to be ratified as R.S. 2477 (i.e. Section 8 of the Act of July 26, 1866, codified as 43 U.S.C. 932): This group includes those rights-of-way that cross land owned by the United States of America within Owyhee County that are illustrated on General Land Office Maps or through other competent evidence that were established as public roads in accordance with Idaho State Law before October 21, 1976.

B. Rights-of-Way to access private land and/or Idaho State land: This group includes those rights-of-way that cross land owned by the United States of America within Owyhee County that are illustrated on General Land Office Maps or through other competent evidence that were used to access private land and/or State land within Owyhee County before October 21, 1976.

C. Rights-of-Way to provide "management/administrative access": This group includes those rights-of-way that cross land owned by the United States of America within Owyhee County that provide management/administrative access across such land to exercise the rights, obligations and entitlements of a license/permit/land use authorization issued by an agency of the United States of America, like the Bureau of Land Management ("BLM"), and rights and interests recognized by the State of Idaho, such as water rights (Idaho Constitution Article XV), grazing preferences (Idaho Code 25-901,902,903) and mineral rights (Idaho Code 47-901) including any vested rights for grazing, water, mineral or other rights that existed prior to October 21, 1976. These licenses are inclusive of grazing permits issued by the BLM.

D. Rights-of-Way to provide "livestock trailing access": This group includes those rights-of-way that cross land owned by the United States of America within Owyhee County that provide livestock trailing access across such land to exercise the rights, obligations and entitlements of a

license/permit/land use authorization issued by an agency of the United States of America, like the Bureau of Land Management (“BLM”) and rights and interests recognized by the State of Idaho, such as stockwater rights (Idaho Constitution Article XV) and grazing preferences (Idaho Code 25-901,902,903), including any vested rights for grazing, and stockwater that existed prior to October 21, 1976. These licenses are inclusive of grazing permits and crossing permits issued by the BLM.

E. Rights-of-Way not within any other group: This group includes those rights-of-way that cross land owned by the United States of America within Owyhee County that are not otherwise determined at this time to be within any other group noted above. This determination, when made by the Board, is not intended to change or otherwise impair whatever status the right-of-way may have had, now or in the future, unless otherwise adjudicated under applicable law.

The foregoing groups (and related criteria) are expressed in an order of priority. Any right-of-way within group A is inclusive of any right-of-way within groups B to D to extent applicable. Any right-of-way within group B is inclusive of any right-of-way within groups C to D to the extent applicable. Any right-of-way within group C is inclusive of any right-of-way within group D to extent applicable.

No groups (and related criteria) intend to cover the various rights-of-way that are shown on United States Department of the Interior Geological Survey Maps No. 1 through 161 and referenced in Owyhee County Resolution 94-03 that are on lands owned by private landowners or by the State of Idaho.

2. IT IS HEREBY FURTHER RESOLVED the Board directs as its designee, Angie Barkell, to apply the groups, including the criteria for such groups, to the various rights-of-way that are shown on United States Department of the Interior Geological Survey Maps No. 1 through 161 and referenced in Owyhee County Resolution 94-03. The designee shall prepare *Proposed* Maps that will color coordinate the various rights-of-way by groupings upon the land owned by the United States of America. The designee shall develop an administrative record to document the various rights-of-way assigned to group A. The *Proposed* Maps will not color coordinate the various rights-of-way by groupings upon the lands owned by private landowners or by the State of Idaho.

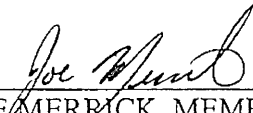
3. IT IS FURTHER RESOLVED that the designee shall deliver progress reports on the production of the *Proposed* Maps to the Board on the fourth Monday of each month. Whereupon the Board will monitor progress so as to take a later action to set a date for implementing a process to finalize such Maps consistent with Owyhee Resolution 11-01.

4. IT IS FURTHER RESOLVED that this Resolution is effective on the date of signatures of the Board.

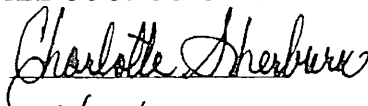
APPROVED AND ADOPTED this 12th day of September, 2011.


JERRY HOAGLAND, CHAIRMAN


KELLY ABERASTURI, MEMBER


JOE MERRICK, MEMBER

OWYHEE COUNTY CLERK: CHARLOTTE SHERBURN

Attest: 

Date: 9/12/2011