

# Decision Record

**EA Number:** OR-056-03-104

**Title of Action:** PacifiCorp Dry Utilities Right-of-Way (ROW)

**Serial Case File Number:** OR 58248

**BLM Office:** Prineville District

**Decision:**

It is my decision to grant PacifiCorp a right-of-way for an above-ground (aerial) electrical distribution system as described in **Alternative C** of Environmental Assessment (EA) Number OR-056-03-104, dated October 6, 2003. This distribution system will provide dry utility services (power, telephone and cable television) to the Resort at Pronghorn (resort), located in Township 16S, Range 13E, Section 16, owned by High Desert Development Company, LLC (HDDP).

**Rationale for Decision:**

Alternative C best meets the primary land management objectives for this area, is the environmentally preferred alternative (see table below), and also meets the purpose and need of supplying dry utility services to the resort. The primary land management objectives include:

- Limit the fragmentation of wildlife habitat on BLM managed lands that may be caused by the ROW;
- Reduce disturbance to soils and vegetation on BLM managed land and limit the potential for the invasion of noxious weeds;
- Maintain current recreational uses of the BLM managed land and reduce the potential for negative influences on the enjoyment of the BLM managed land;
- Maintain or increase public safety on BLM managed land;
- Use existing ROW corridors where possible;
- Limit the potential impact to cultural resources; and
- Limit impacts to and conflicts with existing permitted uses of the BLM managed land, including grazing and military activities.

The following table displays a comparative summary of the detailed environmental effects by alternative and was instrumental in selecting the proposed action alternative.

<b>Environmental Consequences To Resources</b>	<b>Alternative A – utilities primarily buried within existing roadbed</b>	<b>Alternative B – utilities generally buried outside existing roadbed</b>	<b>Alternative C – above ground utilities on existing and new poles</b>
<b>Soil</b>	3.0 mile ROW, new construction. 20' wide construction corridor. Removes 174,260 cubic feet of soil and bedrock	3.0 mile ROW, new construction. 20' wide construction corridor. Install 32 vaults (6x12x8') into 3x4' deep trench and	3.0 mile ROW, new construction. 10' wide construction corridor. Install 49, 43' high poles every 300'. No road

	material. 50% of material removed to be placed elsewhere = possible new soil compaction. 5.5 acres of soil disturbance.	rising 18" above ground. Removes 174,260 cubic feet of soil and bedrock material. 50% of material removed to be placed elsewhere = possible new soil compaction. 6.66 acres of soil disturbance.	improvements or new road construction. 3.33 acres of soil disturbance.
<b>Vegetation</b>	Removes approximately 24 juniper trees. 5.5 acres new disturbance to vegetation.	Removes approximately 113 juniper trees. 6.66 acres new disturbance to vegetation.	Removes approximately 37 juniper trees and prunes/tops another 37 trees. 3.33 new disturbance to vegetation.
<b>Wildlife</b>	Permanent loss of 5.5 acres of available pronghorn habitat. Temporary loss of habitat due to construction noise and traffic.	Permanent loss of 6.66 acres of available pronghorn habitat. Temporary loss of habitat due to construction noise and traffic.	Permanent loss of 3.33 acres of available pronghorn habitat. Temporary loss of habitat due to construction noise and traffic.
<b>Recreation</b>	Temporary alteration to recreation due to construction noise and traffic.	Temporary alteration to recreation due to construction noise and traffic.	Temporary alteration to recreation due to construction noise and traffic.
<b>Visual Resource Management</b>	Low impacts due to construction in existing roadbed.	Low to moderate impacts due to construction parallel to existing roadbed. Construction of 32 vaults creates an accentuated linear feature along the corridor but is not a dominant feature. Clearing of 20' ROW & associated removal of trees=edge effect intermittently noticed by travelers.	Low to moderate impacts due to above ground construction and parallel to existing road bed and power line. Intermittent removal of 37 trees but not a substantial change to setting. Construction=vertical edge effect with introduction of a vertical feature not currently existing. Underground trench

		Short interim impacts from const. and visibility of lighter soils.	near resort minimizes visual impacts to resort residents and visitors.
<b>Cultural Resources</b>	No effect to National Register eligible sites	No effect to National Register eligible sites	No effect to National Register eligible sites
<b>Water Quality and Quantity, Wildfire and Public Safety, Livestock Grazing, Military Permit, Environmental Justice</b>	No changes would be made or are anticipated as a result of the proposed action.	No changes would be made or are anticipated as a result of the proposed action.	No changes would be made or are anticipated as a result of the proposed action.

This decision has taken time to complete and required two environmental assessments to sufficiently analyze a reasonable range of alternatives. It became apparent during the preliminary stages of implementing Alternative A above (as described in EA No. OR-056-02-006 and associated Decision Record) that the winding nature of the existing dirt road would make the installation of below ground utilities impractical and costly and ultimately the environmental analysis would not have been adequate given the construction modifications that were anticipated. Furthermore, assumptions regarding impacts to vegetation during construction of overhead utilities changed when additional information was gathered. As a result, the combination of expected installation difficulties for the placement of below-ground utilities together with revised information regarding impacts to vegetation for overhead utilities led to the need for an amended ROW application and the development of a second EA that considered an alternative for an aerial distribution line.

According to regulations, BLM has the authority to amend applications if there is a deviation in use. In 43 CFR 2803.6-1 (a) it states, “Any substantial deviation in location or use as set forth in 2803.2(b) of this title shall require the holder of a grant or permit to file an amended application.” In 43 CFR 2803.2(b) (2) it states, “With respect to use, the holder has changed or modified the authorized use by adding equipment, overhead or underground lines, pipelines, structures or other facilities not authorized in the instant grant or permit.” Besides a change in use the applicant also had new information that was addressed in this EA.

All mitigation measures relevant to Alternative C and necessary for granting PacifiCorp a dry utility right-of-way will be carried forward into the subsequent ROW grant. The following table outlines the mitigation measures.

<b>Potential Impacts</b>	<b>Mitigation Measures</b>
Wildlife Habitat	See Section 2.2.2 of the EA. Alternative C creates the least amount of new impacts to available pronghorn habitat of all action alternatives with approximately 3.33 acres.
Recreation	See Section 2.2.3 of the EA.
Wildfire and Public Safety	See Section 2.2.4 of the EA. The Central Oregon Fire Management Safety regulations would be followed.
Vegetation	See Sections 2.2.6.1 and 2.2.6.3 of the EA. Alternative C creates the least amount of disturbance to vegetation of all the action alternatives with approximately 3.33 acres of new disturbance.
Noxious Weeds	See Section 2.2.6.2 of the EA. The applicant will follow BLM standards for noxious weed suppression.
Hazardous Materials	See Section 2.2.6.4 of the EA.

These mitigation measures will be incorporated into the terms, conditions and stipulations of the right-of-way grant and are further detailed under that same section of this document.

**Compliance and Monitoring:**

The right-of-way grant will contain terms and conditions requiring compliance with environmental quality standards pursuant to Federal or State law. Such terms and conditions are intended to provide efficient management of the lands subject to the right-of-way grant and to protect the interest of individuals living in the area as well as the public interest in the Federal lands.

Right-of-way grants will be monitored to ensure that development is consistent with the terms and conditions of the grant. A pre-work conference will be conducted with PacifiCorp and an authorized officer from BLM will be present to discuss the stipulations of the grant and plans for construction. BLM personnel will perform any necessary monitoring during and after construction.

**Terms / Conditions / Stipulations:**

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. The right-of-way granted herein may be reviewed at any time deemed necessary by the authorized officer.

- d. The map set forth in Exhibits A-C, attached hereto, is incorporated into and made a part of this grant instrument as fully and effectively as if it 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 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.
- g. Any human remains, cultural and/or paleontological resource (historic or prehistoric or vertebrate fossil site or object) discovered by the Holder, or any person working on his behalf, on public or Federal land shall be immediately reported by telephone to the authorized officer. The Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation and any decision regarding proper mitigation measures will be made by the authorized officer after consulting with the Holder. In some cases it may be necessary to suspend authorized operations in the area of the discovery for as much as 30 days.
- h. In the event the holder sells the property the holder is responsible for completing an assignment to transfer this authorization to the new landowner.
- i. Built drawings shall be submitted upon completion of the project.

**Construction**

- j. The holder shall conduct a pre-work meeting with all affected parties prior to any construction activity.
- k. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- l. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 2 inches deep, the soil shall be deemed too wet to adequately support construction equipment.
- m. During construction of the access road, the holder shall adhere to the basic fire safety rules as specified in the Central Oregon Fire Management Safety regulations.
- n. The holder shall wash all construction equipment, at a minimum, a high pressure nozzle prior to arrival and departure on BLM managed lands.
- o. The holder shall cease all construction activity within ¼ mile of a northern goshawk nest and apply a noise/construction buffer around the nest with a seasonal restriction of March 1 - July 31, if one is discovered before or during construction.

- p. The holder shall avoid destroying or damaging any western burrowing owl burrows. If one is discovered before or during construction, a 200 meter buffer shall be placed around the burrow to avoid damaging both primary and secondary entrances and any potential tunnels.
- q. Construction holes left open over night shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.
- r. The holder shall maintain construction sites in a sanitary condition at all times: waste materials at those sites will be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded material including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.
- s. A litter-policing program would be implemented by the Resort, and approved of in writing by the authorized officer, which covers all roads and sites associated with the ROW.
- t. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. The holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the ROW.
- u. The holder shall be required to report any release of toxic substances (leaks, spills, etc) in excess of reportable quantity established by 40 CFR, part 117 as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State Government as a result of a reportable release or spill of any toxic substances will be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
- v. Unless otherwise agreed to by the authorized officer in writing, power lines shall be constructed in accordance to standards outlined in "Suggested Practices for Raptor Protection on Power lines," Raptor Research Foundation, Inc., 1981. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the authorized officer. The BLM reserves the right to require modifications or additions to all power line structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States.
- w. The holder shall coordinate with the authorized officer on the design and color of the poles and transmission lines to achieve the minimum practicable visual impacts.
- x. The holder shall use nonreflecting lines and conductors.
- y. The holder shall post signs at entrances to the BLM land and near areas of high construction activity to alert users to potential noise and safety hazards. All hazardous construction areas would be signed to temporarily restrict access to recreational use and advise recreation users.

- z. The holder shall remove or replace with pronghorn antelope passable fencing a minimum of 5.5 lineal miles (or twice the length of the above ground lines) of relic and/or illegal fencing within the sections (sections 8, 9, 10, 15, 17, 20, 21, 22, and 28) of BLM managed lands surrounding the resort.
- aa. During construction of the utilities, all work would follow basic fire safety rules, as specified in the Central Oregon Fire Management Safety regulations.

### **Vegetation**

- bb. The holder shall mark all trees to be removed with flagging and obtain BLM's approval prior to cutting operations. The holder shall make the initial route selection and, at BLM's request consider reasonable modifications to avoid removal of or impacts to old growth juniper trees.
- cc. The holder shall cut the trees down to a stump height of no more than 8 inches, with all branches removed from the remaining stump. All snags or trees with potential nest cavities will be left if possible. Following reseeded, all cut trees will be scattered on disturbed BLM managed land within the ROW or other areas approved by BLM. Where possible, cut trees would be used to camouflage disturbed sites either on or adjacent to the constructed ROW, or sold as firewood to the public by BLM.
- dd. The holder shall retain all old-growth juniper snags and juniper with cavities.
- ee. The holder shall seed all disturbed areas impacted by the construction of the utilities either by hydro-seeding or hand seeding. The holder shall also reseed areas of ground disturbing activities in the future such as removal or replacement of a section or pole of the utility line. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the third growing season.
- ff. The holder shall reseed disturbed areas as soon as possible between the established time frames of October 1st and February 1st.
- gg. The holder shall use the following seed mixture or another mixture approved by BLM;
  - 40% western wheatgrass,
  - 30% blue bunch wheatgrass, and
  - 30% bottlebrush squirrel tailAll seed mixture will be 100% pure live seed and certified weed-free. The holder will provide BLM with a seed testing report prior to planting any seed.
- hh. The holder shall suppress noxious weeds according to the BLM standards for noxious weed suppression for a period of three years following construction. A licensed, with the State of Oregon, applicator using herbicides at an application rate approved by BLM.
- ii. The holder may remove reestablished juniper in areas necessary to maintain their facilities.

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 Form 1842-1. If an appeal is taken, your notice of appeal must be written, signed and filed in this office (at the above address)

with the decision-maker within 30 days from the 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 regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) 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 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 demonstrate 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 of 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.

Please note, however, that under the regulations in 43 CFR 2804.1(b), this decision is effective even if an appeal is filed.

\_\_\_\_\_/s/ Robert B. Towne\_\_\_\_\_  
Robert B. Towne  
Deschutes Field Manager

\_\_\_\_12/02/03\_\_\_\_\_  
Date

#### **Response to Comments:**

The PacifiCorp Environmental Assessment, Number OR-056-03-104, was available for public review and comment on October 10, 2003 for a 30 day public comment period ending November 8, 2003. During this period, 37 comment letters were received by the BLM. Of these comments, 15 were in favor of the aerial lines, 19 were opposed to the aerial lines and 3 provided comments but were neutral on the proposed action alternative. A number of comments were also received that were considered outside the scope of this environmental assessment and beyond consideration of the environmental issues pertaining to BLM managed land within the project area and were not included. Comments were extracted from the letters, compiled and grouped into lists of similar concerns. The BLM has summarized these comments, placed them in specific categories and responded to the comments below:

**A. Comments (Process):**

- 1) *“Bad precedent to encourage developers to believe that they can first obtain approvals on the basis of conditions which protect the public interest and later get the conditions deleted.”*
- 2) *“Process of allowing multiple environmental assessments for a project is very disturbing and may be legally questionable.”*
- 3) *“A bad precedent to approve a development with conditions to protect the public interest and then let the conditions be removed, one by one, at a later date with a second review process.”*
- 4) *“If BLM grants approval for a project with conditions that protect public interest and later deletes those the public will lose faith in a supposedly fair and unbiased system.”*
- 5) *“Allowing power poles and overhead utility lines on public land will set a horrible precedent.”*

**Response:**

We believe that the public’s interest is best served by the decision to grant an above-ground (aerial) electrical distribution system ROW. The reasons for revisiting the original decision for an underground ROW and analyzing an overhead distribution system were discussed above in the Rationale for Decision and BLM regulations provide land managers the authority to amend applications if there is a deviation in use. In 43 CFR 2803.6-1 (a) it states, “Any substantial deviation in location or use as set forth in 2803.2(b) of this title shall require the holder of a grant or permit to file an amended application.” In 43 CFR 2803.2(b) (2) it states, “With respect to use, the holder has changed or modified the authorized use by adding equipment, overhead or underground lines, pipelines, structures or other facilities not authorized in the instant grant or permit.” The process of applying for a ROW grant goes as follows:

- a) The applicant submits an application to BLM for their proposal;
- b) The environmental impacts to BLM managed resources are analyzed in the appropriate National Environmental Policy Act (NEPA) document;
- c) The authorized officer renders a decision;
- d) If a favorable decision is made a ROW grant is issued with terms and conditions (mitigation measures) identified in the ROW grant.

This decision is specific to right-of-way OR-58248 and will not set a precedent for allowing power poles and overhead utility lines on public land. Providing rights-of-way for utilities and other services are considered part of the BLM’s multiple use management mandate. In the Brothers/La Pine Resource Management Plan Record of Decision and Rangeland Program Summary, dated July 1989, on page 29, it states, “Public lands will continue to be available for rights-of-way, including multiple use and single use utility/transportation corridors following existing routes, communication sites and roads.” On page 33 of the Plan, it states, “All rights-of-way applications will be reviewed using the

criteria of following existing corridors wherever practical and avoiding proliferation of separate rights-of-way.”

**B. Comments (Wildlife):**

- 1) *“Urging BLM to require more specific wildlife mitigation measures for raptors, both migratory and resident.”*
- 2) *“A big supply line on high towers imposes on the views, devalues and reduces the utility of the public land over which it travels, impacts the wildlife that live there and provides an opportunity for vandalism and accidents of nature.”*
- 3) *“This suggests that development of the resort may well have a significant adverse impact on the pronghorn antelope, and that there needs to be an analysis to determine whether the resort area includes land that is “key” to this species.”*

**Response:**

Mitigation measures are addressed in this EA in Section 2.2.2 and will be incorporated into the terms and conditions of the ROW grant. In addition, the wildlife mitigation measures that were addressed in the previous EA number OR-056-02-006, Appendix A will also be incorporated in the ROW grant.

The purpose of this EA is to designate a ROW for electrical lines to the resort, not the validity of the resort itself. As such, the effects looked at the impacts of the ROW crossing BLM lands and not the resort.

**C. Comments (Visual):**

The following comments are representative of those received regarding visual effects resulting from the proposed action alternative.

- 1) *“A big supply line on high towers imposes on the views, devalues and reduces the utility of the public land over which it travels, impacts the wildlife that live there and provides an opportunity for vandalism and accidents of nature.”*
- 2) *“Public lands and scenic views could be greatly diminished with countless miles of power poles and overhead utility lines in the future.”*
- 3) *“Overhead utility lines will allow a permanent blight to the scenic views of the impacted and adjacent areas.”*
- 4) *“Above ground lines would substantially detract from this natural beauty, would set an undesirable precedent for future resort developments.”*
- 5) *“Any environmental impact from burial will be temporary, while power pole would be a permanent eyesore.”*

**Response:**

Visual resources are addressed in Section 3.7 of the EA. The presence of a single pole transmission line will not create a dominant visual feature in the area, given the flat topography and presence of juniper woodland throughout the area. The project will either modify an existing power line along the BNSF railroad or add a single line of 49 power poles that are 43 feet high. The project occurs in areas that

are designated as VRM Class III (along Highway 97) or VRM Class IV. These designations allow built features to be noticeable.

The analysis of visual resource impacts is based on key observation points, which includes roads such as Highway 97 and Pleasant Ridge Road. While the duration of view may be longer for cyclists than for motorists on Pleasant Ridge Road, the orientation of view is similar, and the change in character of these views is low. Recreational cyclists currently view several power lines and three substations along Pleasant Ridge Road. The EA does note (Section 4.6.7.1) that there may be cumulative impacts due to future development of power lines in the area; however the modification of the existing power line along Pleasant Ridge Road does not significantly change the character of the views in this area.

**D. Comments (Recreational):**

- 1) *"I request you uphold my interest in scenic views and recreational opportunities."*
- 2) *"Above ground utilities detract from the experience of solitude, seclusion, and serenity desired when using public lands for recreation."*

**Response:**

The project does not degrade recreational opportunities significantly in the area. The project area currently contains many fences, roads, several power lines, two gas pipelines, and a canal. Many of these utility corridors serve as recreational routes. Both an above ground and below ground alternative would be visible either as poles and conductors or as a cleared area with numerous concrete vaults. However, the overwhelming majority of the area would remain in a natural condition, with few, if any, built features.

**E. Comments (Noxious Weeds):**

- 1) *"113 juniper trees would be removed and we would be creating a major pathway for noxious weeds."*
- 2) *"An underground trench would create a substantial pathway for noxious weed encroachment in an area relatively free from noxious weeds."*

**Response:**

The holder of the ROW grant will be required to suppress noxious weeds for a period of 3 years following construction to mitigate the potential of the spread of noxious weeds. For more detailed information on this refer to section 2.2.6.2 of the EA.

**F. Comments (Fire Danger):**

- 1) *"Overhead lines also create a substantial increase to the fire danger, as broken, live lines can easily start a fire."*
- 2) *"Overhead lines are more subject to fire."*

**Response:**

Overhead lines could start a fire but an ignition of this type is very rare. There is a higher probability that fires would be started by humans or lightning in the area than by overhead power lines.

**G. Comment (Cumulative):**

- 1) *“Decision could open the door to creating undesirable, long-term cumulative impacts, which area not being analyzed by this single project.”*

**Response:**

Cumulative impacts were addressed under Section 4 of the EA. The scope of the analysis is deemed adequate based on the resource complexity of the project area and the degree of other activities in that same area.

**H. Comment (Mitigation Measures):**

- 1) *“Mitigation proposed is inadequate.”*

**Response:**

Mitigation measures are provided by BLM’s natural and cultural resource specialists and include what they have determined, often in collaboration with their colleagues, to be appropriate and/or necessary to avoid adverse impacts to a particular resource. Mitigation measures addressed in section 2 of the EA will be included in the terms and conditions of the ROW grant. Also, any additional stipulations that will be incorporated in the ROW grant are outlined in this Decision Record, in the Terms/Conditions/Stipulations section.

**I. Comment (Archeological):**

- 1) *“There may be some sensitive archeological sites beneath the ground as well as the burrowing owl nests that we do not know about.”*
- 2) *“To go underground would leave the high desert with a scar, not to mention what it could do to potential archeological and ground animal sites.”*

**Response:**

Cultural Resources are addressed in the EA in sections 2.2.5, 3.8, and 4.7. As stated in the EA, surveys did not result in the identification of significant (i.e., National Register eligible) cultural resources in any of the proposed utility corridors. In addition, the terms and conditions of the grant will stipulate that, “Any human remains, cultural and/or paleontological resource (historic or prehistoric or vertebrate fossil site or object) discovered by the Holder, or any person working on his behalf, on public or Federal land shall be immediately reported by telephone to the authorized officer. The Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be

responsible for the cost of evaluation and any decision regarding proper mitigation measures will be made by the authorized officer after consulting with the Holder. In some cases it may be necessary to suspend authorized operations in the area of the discovery for as much as 30 days.” (see Terms / Conditions / Stipulations item g. below)

**J. Comment (NEPA):**

*“Environmental impacts have been overstated for the under grounding option and understated for the overhead option. Conflict of interest exists when the applicant is paying URS Corporation for the development of this EA.”*

**Response:**

According to regulations in 40 CFR Ch V, 1506.5 (b) it states, “If an agency permits an applicant to prepare an EA, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the EA.” Also in the BLM National Environmental Policy Act (NEPA) Handbook, H-1790-1, B., it states, “A third-party contract is an option when BLM cannot prepare a required NEPA analysis due to time, budget, or other limitations or when either the BLM or the applicant requests that the applicant hire a contractor to prepare the EA or EIS.”

**K. Comment (Private Agreement):**

*“We feel that we participated in forming an agreement with the Pronghorn developers, and we expect all parties to honor that agreement.”*

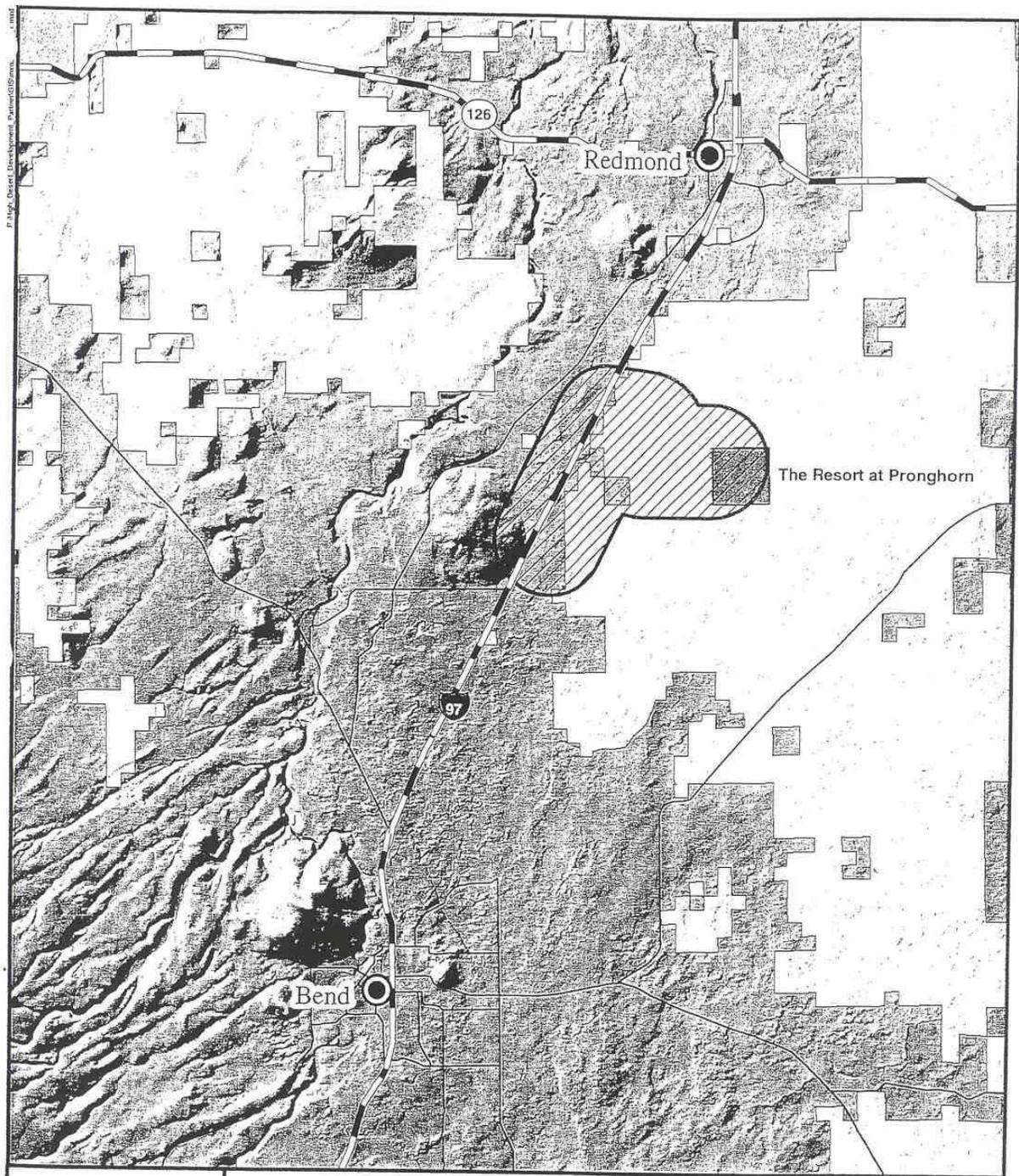
**Response:**

This agreement was made between private individuals and representatives of The Resort at Pronghorn. The BLM was not involved its development and is not obligated to ensure its successful execution.

Attachments:

Exhibit A-C

Form 1842-1



P:\High Desert Developments\Partners\GIS\maps



- Approximate Area of Study
- Bureau of Land Management Surface Ownership
- Interstate
- Major Transportation Routes

**Regional Map**  
September 2003

**EXHIBIT A**

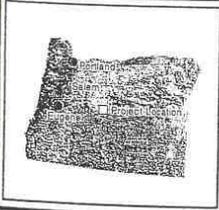
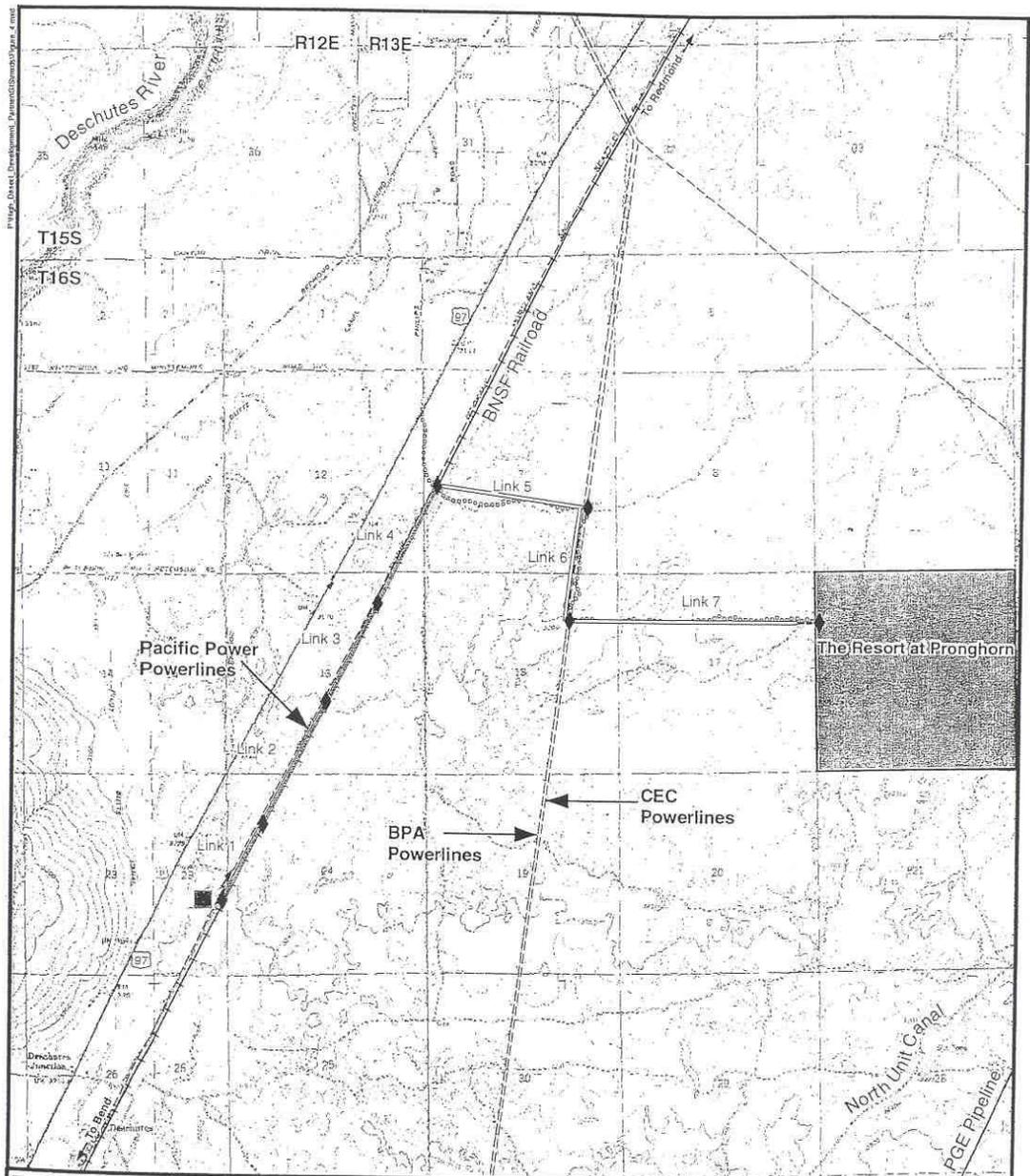


**URS**



**Figure 1**

Source: USGS DEM, BLM Surface Ownership



- Alternative C**
- New Above Ground Corridor
  - - - New Underground Corridor
  - - - Rebuilt Above Ground Corridor
  - BLM Land
  - Existing Substation
  - ◆ Link
  - Existing Access Road
  - - - Existing Powerline
- Source: USGS 7.5' Quadrangles Forked Horn Butte and Turnalo, 1962

### EXHIBIT B

**Alternative C**  
September 2003

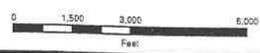
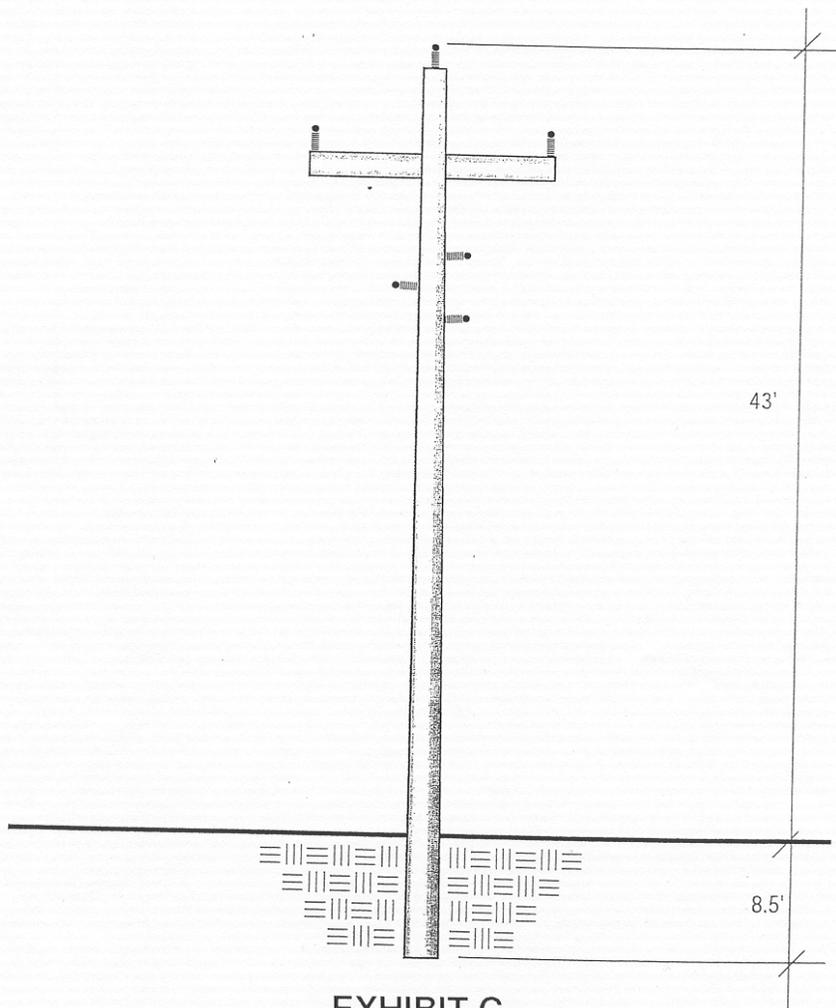


Figure 4



**EXHIBIT C**

Pronghorn  
Environmental Assessment

Typical Single-Circuit  
Structure

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,  
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL . . . . . Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE  
NOTICE OF APPEAL . . . . . Bureau of Land Management  
Prineville District Office  
P.O. Box 550  
Prineville, OR 97754

SOLICITOR  
ALSO COPY TO . . . . . Regional Solicitor  
U.S. Department of the Interior  
Lloyd 500 Building, Suite 607  
500 NE Multnomah Street  
Portland, OR 97232

3. STATEMENT OF REASONS . . . . . Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

SOLICITOR  
ALSO COPY TO . . . . . Regional Solicitor  
U.S. Department of the Interior  
Lloyd 500 Building, Suite 607  
500 NE Multnomah Street  
Portland, OR 97232

4. ADVERSE PARTIES . . . . . Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).

5. PROOF OF SERVICE . . . . . Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203. This may consist of a certified or registered mail AReturn Receipt Card@ signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

*Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402 ). Be certain that all communications are identified by serial number of the case being appealed.*

**NOTE:** A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a))

SUBPART 1821.2 BOFFICE HOURS; TIME AND PLACE FOR FILING

Sec. 1821.2-1 *Office hours of State Offices.* (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for the filing of documents and inspection of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order. The hours during which the State Offices and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard time or daylight saving time, whichever is in effect at the city in which each office is located.

Sec. 1821-2(d) Any document required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulation, or decision to be filed within a stated period, the last day of which falls on a day the State Office or the Washington Office is officially closed, shall be deemed to be timely filed if it is received in the appropriate office on the next day the office is open to the public.

\* \* \* \* \*

See 43 CFR Sec. 4.21 for appeal general provisions.