# Amendment to the BCCA LUL EA

**Project Name:** BCCA Land Use License

**Implementation Date: July 1, 2011-August 15, 2011**

**Location:** Sections 4, 9 & 16 T15N R12W, Powell County

## I.Type and Purpose of Action

The Blackfoot Challenge is proposing to use approximately 2.7 miles of existing road within DNRC's sections 4, 9, and 16 Township 15 North, Range 12 West to provide motorized tours for members of the community (see attached map). These DNRC sections are within the Blackfoot Community Conservation Area (BCCA). The DNRC signed an MOU that encourages cross boundary cooperation within the BCCA.

Changes to the original EA include: A guide is no longer required, the number of tours will be limited to 14 per week, trips can occur any day of the week. Gates would remain closed/locked, but users would have access to the lock combination, and users would be required to sign in at kiosks posted at 4 portal gates. Additionally, the Blackfoot Challenge would install locked gates on secondary DNRC roads to prevent straying from the designated route.

## II. Project Development

### *1. Public Involvement, Agencies, Groups or Individuals Contacted:*

*~ NO CHANGES*

### 2. Other Governmental Agencies With Jurisdiction, List of Permits Needed:

~ NO CHANGES

### 3. Alternatives Considered:

~NO CHANGES

## III. Impacts on the Physical Environment

### 4. Geology and Soil Quality, Stability and Moisture:

### 5. Water Quality, Quantity and Distribution:

Jeff Collins reviewed the new proposal and concluded that "the planned modifications to the land use license are not expected to cause any additional effects or require mitigations for soil, water or fisheries".

### 6. Air Quality

~NO CHANGES

### 7. Vegetation Cover, Quantity and Quality:

~ NO CHANGES

## 8. Terrestrial, Avian and Aquatic Life and Habitats:

**Fisheries:** ~ No Changes

**Grizzly Bears:** ***There is concern that the proposed recreational motorized use would displace grizzly bears.*** The proposed route on School Trust Land would come within approximately 0.33 mile of wetlands valuable for spring habitat use by grizzly bears. Grizzly bears have been observed on several occasions on the affected School Trust parcels in recent years. By limiting the proposed recreational motorized vehicle use to 7 weeks in July and August, the tours should avoid the heaviest period of use by grizzly bears. However, the proposed action would likely remove the affected roads' status as restricted under ARM 36.11.403 (63)(b)(ii) due to the proposed permitted increase of up to 10 motor vehicle passes up to 14 times per week for > 31 days. With the proposed recreational motorized vehicle use not being guided, there may be a risk of grizzly bears being shot or displaced due to the increased motorized vehicle use. Additionally, with the same Recreational Motorized Vehicle Use Policy applying to approximately 11.1 miles of currently restricted, or seasonally restricted, road on the adjacent BCCA, there would be a risk of similar effects on those lands as well. Thus, there would likely be moderate risk of direct, indirect, and cumulative effects to grizzly bears from the proposed action.

Attachment B-2 is a memo discussing Grizzly Bear mitigations to minimize impacts and how these are currently being followed in the project area. Because they are already being implemented they were not mentioned in the body of this paragraph.

**Gray Wolves:** ***There is concern that the proposed recreational motorized use would negatively affect gray wolves.*** The proposed route on School Trust Land would come within 1 mile of a known wolf den. However, because the proposed action is not a forest management activity, and would occur outside of the denning period, ARM 36.11.430 (1) (a) (i) would not be applicable. During the proposed July 1 – August 15 time frame, wolves do utilize rendezvous sites on the BCCA. It is not known if the proposed travel route on the BCCA would come within close proximity of any rendezvous sites. Due to the proximity of the proposed route through School Trust Land to known wolf activity, and the extent of the proposed route through the BCCA on roads that are currently restricted to administrative use, or are seasonally restricted, there may be moderate risk of direct, indirect, and cumulative effects to the Ovando Mountain wolf pack from the proposed action.

**Bald Eagles:** ***There is concern that the proposed motorized tour would disturb and displace bald eagles nesting along Jones Lake and Dick Creek.*** The proposed tour would likely proceed along the Monture Road, which is an open county road, and is within 250 yards to ½ mile from the three Dick Creek bald eagle nests. However, there is sufficient visual screening cover between the affected nests and the Monture Road so that disturbance to nesting bald eagles should be minimized. During the proposed time frame (July and early August), young of the year should be close to fledging from the nest. As a result, there would likely be low risk of direct, indirect, or cumulative effects to nesting bald eagles along Jones Lake and Dick Creek.

***The entire wildlife analysis can be found in attachment B-1.***

**9. Unique, Endangered, Fragile or Limited Environmental Resources:** Please refer to section 8 above for analysis on applicable unique, endangered, fragile or limited environmental resources.

**10. -13.**

~NO CHANGES

## IV. Impacts on the Human Population

**14. -23.**

~NO CHANGES

**24. Other Appropriate Social and Economic Circumstances:**

~NO CHANGES

| | | | | |
|---|---|---|---|---|
| **EA Checklist Prepared By**: | **Name:** | Amy Helena | **Date:** | 3/14/11 |
| | **Title:** | Management Forester | | |

## V. FINDING

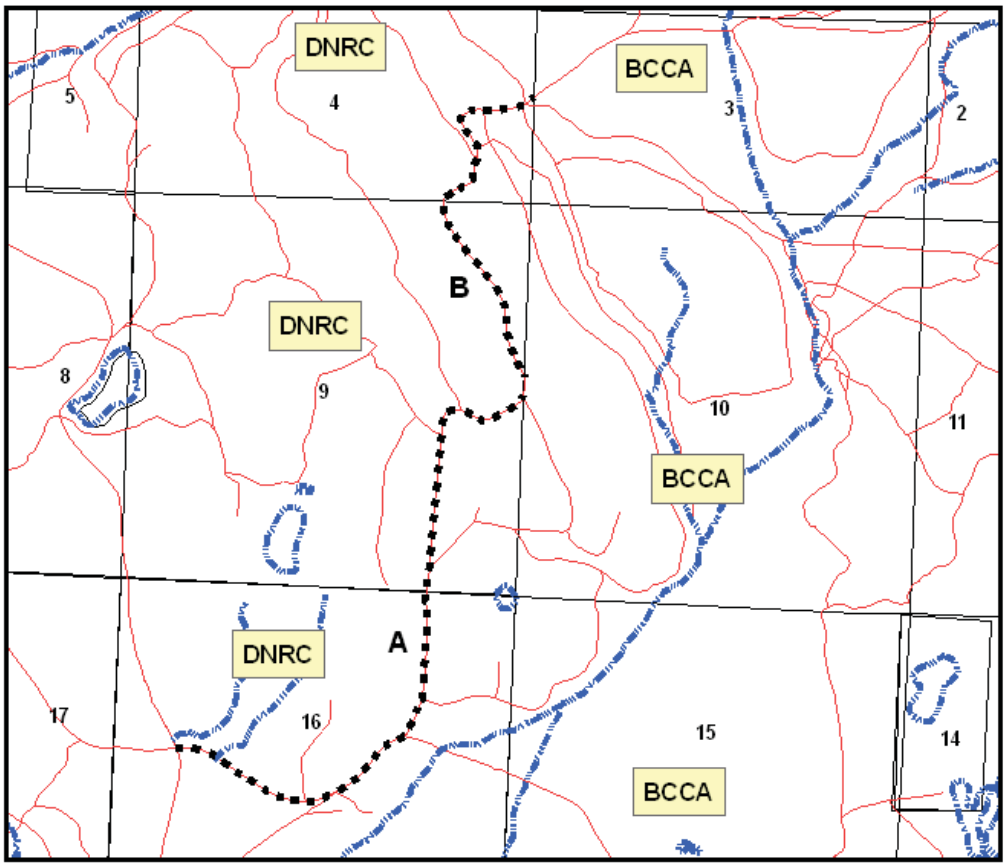
**25.-27.**

~NO CHANGES

| | | |
|---|---|---|
| **EA Checklist Approved By**: | **Name:** | Craig Nelson |
| | **Title:** | Forest Management Supervisor |
| **Signature:** | | **Date**: |

Attachment A

**BCCA ACCESS**
**Sec 4,9 & 16 T15N R12W**
**DNRC-CLEARWATER UNIT**




0 0.25 0.5 1 1.5 2 Miles

Segment A: 9,177 feet
Segment B: 5,118 feet
Total: 14,295 feet (2.7 miles)

BCCA ACCESS
Streams
Roads

N

**A. Helena**
**3/4/10**

Attachment B-1

Mike McGrath

Wildlife Biologist

MT DNRC Southwestern Land Office

10 March 2011

**Blackfoot Community Conservation Area Community Tours**

**Land Use License Wildlife Analysis**

Description: The proposed land use license would allow recreational motorized access for members of the community to see and learn about the Blackfoot Community Conservation Area (BCCA), utilizing approximately 3.2 miles of road (GIS calculation) on School Trust Lands in sections 16, 9, and 4 T15N R12W, and continuing through the rest of the BCCA. The proposal would utilize approximately 11.1 miles of road (GIS calculation) on the BCCA that are currently classified as Administrative Use or Seasonally Restricted. The proposed tours would allow up to 5 cars/trucks or 10 ATVs/motorcycles per trip, with up to 14 trips per week from July 1 through August 15. Gates would remain closed/locked, but users would have access to the lock combination, and users would be required to sign in at kiosks posted at 4 portal gates. Additionally, the Blackfoot Challenge would install locked gates on ancillary DNRC roads to prevent straying from the designated route.

Issues

1. There is concern that the proposed recreational motorized use would displace grizzly bears.

The proposed route on School Trust Land would come within approximately 0.33 mile of wetlands valuable for spring habitat use by grizzly bears. Grizzly bears have been observed on several occasions on the affected School Trust parcels in recent years. By limiting the proposed recreational motorized vehicle use to 7 weeks in July and August, the tours should avoid the heaviest period of use by grizzly bears. However, the proposed action would likely remove the affected roads' status as restricted under ARM 36.11.403 (63)(b)(ii) due to the proposed permitted increase of up to 10 motor vehicle passes up to 14 times per week for > 31 days. With the proposed recreational motorized vehicle use not being guided, there may be a risk of grizzly bears being shot or displaced due to the increased motorized vehicle use. Additionally, with the same Recreational Motorized Vehicle Use Policy applying to approximately 11.1 miles of currently restricted, or seasonally restricted, road on the adjacent BCCA,

there would be a risk of similar effects on those lands as well. Thus, there would likely be moderate risk of direct, indirect, and cumulative effects to grizzly bears from the proposed action.

2. There is concern that the proposed recreational motorized use would negatively affect gray wolves.

The proposed route on School Trust Land would come within 1 mile of a known wolf den. However, because the proposed action is not a forest management activity, and would occur outside of the denning period, ARM 36.11.430 (1) (a) (i) would not be applicable. During the proposed July 1 – August 15 time frame, wolves do utilize rendezvous sites on the BCCA. It is not known if the proposed travel route on the BCCA would come within close proximity of any rendezvous sites. Due to the proximity of the proposed route through School Trust Land to known wolf activity, and the extent of the proposed route through the BCCA on roads that are currently restricted to administrative use, or are seasonally restricted, there may be moderate risk of direct, indirect, and cumulative effects to the Ovando Mountain wolf pack from the proposed action.

3. There is concern that the proposed motorized tour would disturb and displace bald eagles nesting along Jones Lake and Dick Creek.

The proposed tour would likely proceed along the Monture Road, which is an open county road, and is within 250 yards to ½ mile from the three Dick Creek bald eagle nests. However, there is sufficient visual screening cover between the affected nests and the Monture Road so that disturbance to nesting bald eagles should be minimized. During the proposed time frame (July and early August), young of the year should be close to fledging from the nest. As a result, there would likely be low risk of direct, indirect, or cumulative effects to nesting bald eagles along Jones Lake and Dick Creek.

**This is a Memo from Ross Baty (DNRC Wildlife biologist) regarding Grizzly Bear mitigation. Amy Helena's responses to Ross are in RED FONT.**

**To:** Mike McGrath, Amy Helena, Dave Poukish, Jon Hayes, Bob Storer, Tony Liane

**CC:** Gary Frank, Shawn Thomas, Mike O'Herron

**From:** Ross Baty

**Date:** March 18, 2011

**Re:** BCCA Land Use License

---

Hi Folks,

I commend the efforts of the Blackfoot Challenge and the local community for establishing the BCCA, and for their many other sizeable contributions to land and wildlife conservation accomplishments in the Blackfoot Valley. This is cool stuff. To support the continuing success of these endeavors, I have a few more thoughts and suggestions for you to consider regarding the pending BCCA Land Use License DNRC would authorize. My hope would be that we could incorporate as many of the additional mitigations as possible, which I have included below, to help us be able to credibly state in our wildlife effects analysis that we would likely have minimal impact on the T&E species that are likely to be present in the project area.

-First, Mike's concerns about the sensitivity of the BCCA are warranted as we know this area is frequented annually by a number of grizzly bears. The protections of the ESA follow the listed species regardless of whether or not they occur within Recovery Zones, so where we know the critters are likely to be present, our actions should be designed to minimize risk of harm to them (i.e., no "take"). As proposed tours would occur outside of the primary denning period for wolves, there is little concern for disturbance during that most sensitive time, but wolves are still listed as an endangered species and ESA protections apply. The proposed season of use restriction (July 1-August 16) and sign in slip procedure contained in the proposal are good measures that help alleviate several concerns for both wolves and bears.

-The notion that the proposed activity is not a... "Forest Management Activity and therefore the FM ARMs don't apply"... is moot, because we still have to minimize risk of "take" of federally listed species. So it is appropriate to apply some sort of measures that have a similar likelihood of effectiveness, even if they aren't exactly like the FM ARMs. Given this type of license being offered, our existing ARMs still provide a useful guide for reducing risk to T & E species associated with motorized activities (i.e., similar to motorized use and work our own field staff conduct behind locked gates).

-When reviewing the past license terms and current proposals, it appears that the BCCA Council is struggling with determining allowable activities and access for their newly acquired lands. It seems that the desired use is beginning to evolve from one of guided "show me tours" to inform local folks and contributors about the acquisition, to one of ..."we want broader opportunities for a diversity of recreational uses during longer periods of the year." This isn't necessarily bad, but these are very different purposes that would be useful to clarify as we continue to consider such proposals. For example, tours can easily be accomplished with short term guided trips on an infrequent basis with minimal risk of impact. Whereas, broader opportunities for motorized use and unregulated user days would have potential for considerably greater risk -- particularly if a poorly regulated ATV park were to evolve. Proposals that address greater potential for recreational use and motorized access may better be addressed by a set transportation plan for the BCCA and accompanying regulations designed and agreed to by the BCCA Council for their lands (sort of like how FWP WMAs are set up). I was also curious if carrying firearms behind our locked gate by users would be addressed in any way? Currently we restrict our own staff and contractors.

-Proposals such as this that may arise on HCP lands in the future may stimulate a fair bit of discussion and could impact some of our allowances for other forest management purposes. Minimizing the increase of open roads and addressing illegal ORV use on HCP lands is one of the primary conservation objectives contained in the HCP.

-I would encourage all of our decision makers evaluating these types of proposals to take seriously any potential to inadvertently create an environment like the one that existed for many years in Deep Creek west of Missoula. Once expectations and allowances are created for ORV use, they can be difficult to control or close down, should impacts grow out of control.

This area is not going to turn into an ORV free for all there is strong resistance to this activity and the council will revert back to the old recreational use policy before they would allow abuse to occur in the community area. The community members take a lot of pride in this area and its management.

I strongly encourage any of you that are interested to come to a BCCA council meeting to get a better idea of the dynamics of this group. I think it would alleviate many of your concerns. These decisions aren't made overnight we spent three months working on the recreational use plan for this year.

The following is a list of additional mitigations/measures that you might consider to help lessen risk for T & E species:

-Provide bear aware signs at kiosk locations at each entry point (grizzlies are in the area, know your bear species, pack it in-pack it out garbage message, keep foods in vehicle or store in other bear resistant manner, encourage possession of bear spray if hiking away from vehicle etc.). Another important message to potentially communicate, is that if a bear is encountered, leave the area and report the observation to FWP.

These signs already exist in both entrances into the BCCA (our gate in section 16 and the boot tree).

-Provide informational brochures to provide information about the conservation area, required restrictions for tour folks, and map of the legal routes folks can follow.

Maps with this information are going to be available at all sign in boxes. Arrows indicating the routes may also be posted. All side roads on the DNRC parcels will be gated with pole gates as indicated on the final proposal. This will keep people on the main route.

-Consider restricting hours of operation of tours to occur during daylight hours when bears are generally less active.

Use is already day use only and these restrictions will be very clearly outlined on maps and at the kiosk.

-Discourage possession and use of firearms while on tours.

I don't know how I can police this on someone else's property or even on ours for that matter. Walk in users could also be packing.

-Make it clear in information that travel off authorized route will result in suspension of the land use license.

I have already made this very clear at all BCCA meetings and it is also already outlined in the amended LUL that I plan to give to the challenge to sign.

- Provide some evaluation and sideboards on the number of years such tours may be desirable or necessary (duration of activity). Maybe a longer term year long or seasonal transportation plan with regulations enforceable by FWP would be a better long term option depending upon the management objectives for the area? There may be potential to establish a cooperative Block Management Area (BMA) of some sort that might provide stricter and more enforceable rules for the BMA. Under BMA status, the included lands might be more likely to receive regular patrol by law enforcement, and BMA rules might have more teeth as violations would result in criminal rather than civil offences.

This area is already in a BMA. Right now the focus is only on hunting season. This is a trial year for the new recreational use plan. We (BCCA COUNCIL) were going to see how it goes this year and then adjust accordingly.

-Not really a T &E concern, but you may also want to consider prohibiting firewood cutting.

I already prohibit firewood cutting on these parcels.

That's it. I hope this is helpful. If anyone has any questions of comments, let me know. Thanks.

Ross