

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

Twin Falls District
Shoshone Field Office
400 West F Street
Shoshone, Idaho 83352

CATEGORICAL EXCLUSION

NEPA No. DOI-BLM-ID-T030-2011-0042-CX

A. Background

BLM Office: Shoshone Field Office. Lease/Serial/Case File No.: IDI-14990

Proposed Action Title/Type: Idaho Power IDI-14990, Midpoint to Hydra

Location of Proposed Action:

Current right-of-way
Boise Meridian,
T. 7 S., R. 17 E.,
sec. 11, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

Right-of-way with proposed amendment
Boise Meridian,
T. 7 S., R. 17 E.,
sec.10, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
sec.11, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$.

(For further detail refer to Attachment A, right-of-way location map)

B. Description of Proposed Action

The Bureau of Land Management (BLM), Shoshone Field Office has received a right-of-way application from Idaho Power Company (IPC) requesting to renew and amend an existing right-of-way. The right-of-way grant identified as IDI-14990 is for a portion of the Midpoint to Hydra 138 kV power transmission line. This right-of-way grant was originally issued to Idaho Power Company July 12, 1979 for a term of 30 years. The grant, as currently authorized, allows for the maintenance of the power line on 2.76 acres of public land that consists of a corridor approximately 1 mile long and 30 feet wide. The proposed action is to renew the right-of-way grant for a term of 30 years with an amendment to increase the width of the right-of-way corridor from 30 feet to 50 feet and relinquish a portion of the right-of-way that was patented to Idaho Power Company in 1992. The increase in width is being requested to meet standards required in the National Electric Safety Code for this size and type of power line and would not authorize new uses or development outside of the original 30-foot right-of-way boundary. The right-of-way with these changes in width and length would be approximately 0.77 miles (4,059 feet) long by 50 feet wide and encompass approximately 4.66 acres of public lands.

C. Land Use Plan Conformance

Land Use Plan Name: Monument Resource Management Plan (RMP)

Date Approved/Amended: April 22, 1985.

The proposed action is not specifically provided for in the RMP; however it does fall within the concept of multiple use management. “For the Monument RMP, a variety of resource uses are allowed. Production and use of commodity resources and commercial use authorization would occur, while protecting fragile resources and habitat, preserving natural systems and cultural values, and allowing for non-consumptive resource uses.” (Monument RMP, pg 5) “The public lands will be managed under the principles of multiple use and sustained yield as required by FLPMA. Any valid occupancy, and development of the public lands, including but not limited to, those requiring rights-of-way, leases, licenses will be subject to applicable environmental review procedures,... BLM will include stipulations and special conditions as necessary in leases, licenses, and permits to ensure the protection and preservation of resources.” (Monument RMP, pg 25)

D. Compliance with NEPA

The proposed action is qualified under categorical exclusions 516 DM 11.9 E(9) “(r)enewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations” and 516 DM 11.9 E(13) “(a)mendments to existing rights-of-way, such as the upgrading of existing facilities, which entail no additional disturbances outside the right-of-way boundary.” Anticipated effects of the proposed action have been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply (see Attachment B: Categorical Exclusion Review Sheet).

Based on my review of the project described above and field office staff recommendations, I have determined that the project is in conformance with the applicable land use plan and is categorically excluded from further environmental analysis. I have decided to approve the action as proposed within Idaho Power Company’s application to renew an amend right-of-way IDI-14990. A right-of-way will be offered to them to operate and maintain the existing 138 kV power transmission line as identified in the attached draft right-of-way grant (Attachment C).

E. Signature

Authorizing Official: /s/ Codie Martin Date: 6/10/2015

Name: Codie Martin

Title: Field Manager

F. Contact Person

For additional information concerning this Categorical Exclusion, contact Kasey Prestwich, Realty Specialist, at (208) 732-7204 or at 400 West F Street, Shoshone, Idaho 83352.

G. Attachments

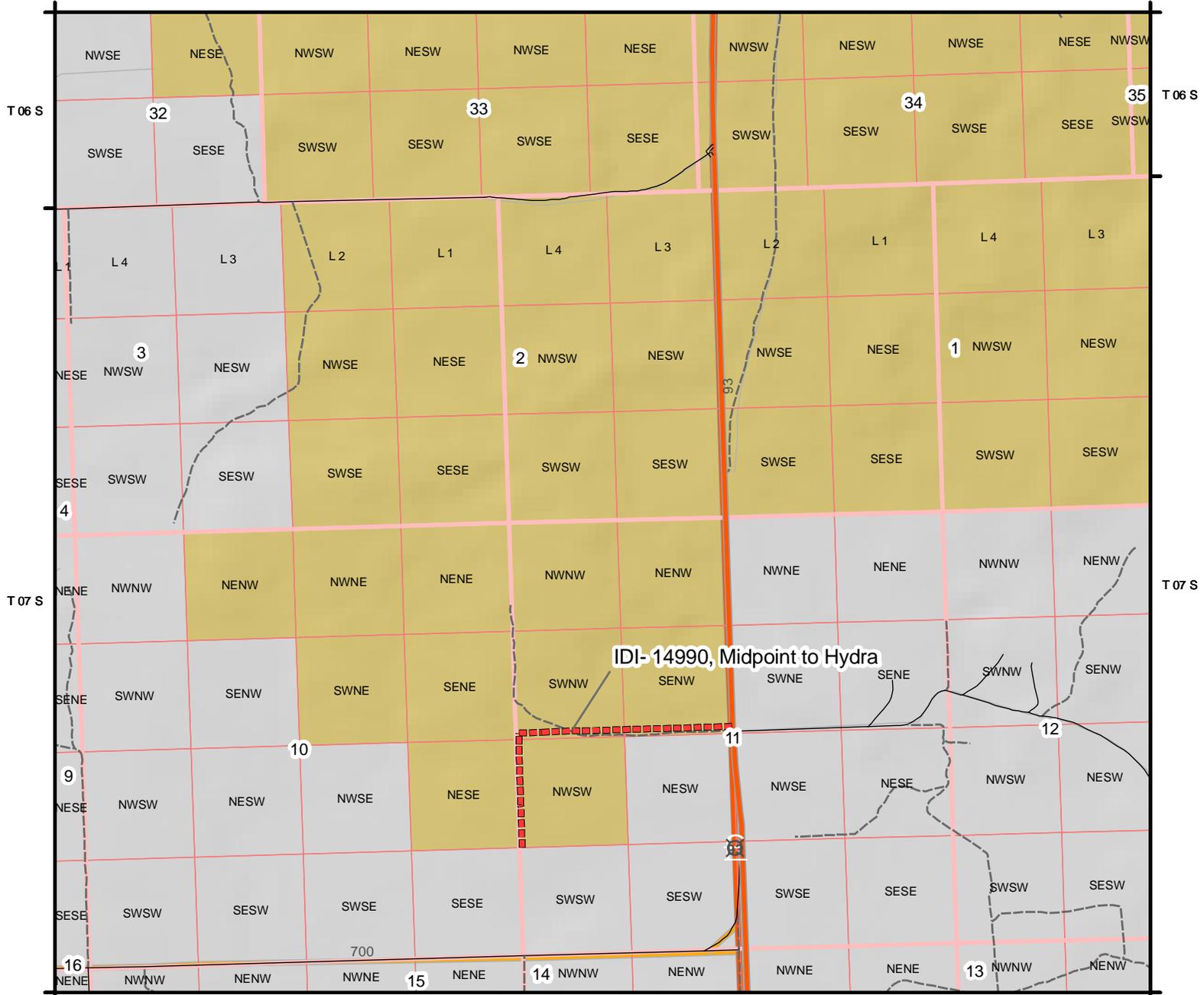
Attachment A, IDI-14990, Midpoint to Hydra Location Map.

Attachment B, IDI-14990, Midpoint to Hydra Categorical Exclusion Review Sheet.

Attachment C, Draft IDI-14990 Idaho Power, Midpoint to Hydra Right-of-Way Grant

IDI-14990, Midpoint to Hydra Powerline Right-of-Way

R 17 E

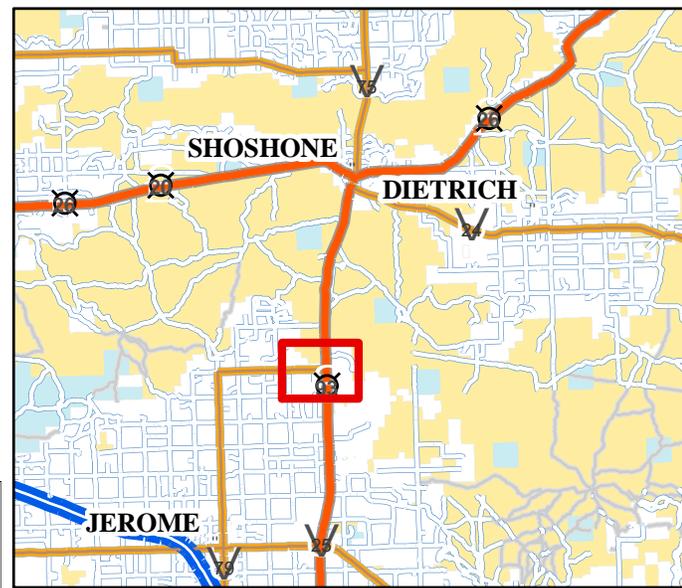
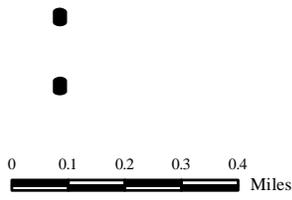


IDI- 14990, Midpoint to Hydra

Legend

- - - 14990_MidPoint_Hydra
- Interstate
- Highway
- Major Road
- Local Road; 305
- - - Unpaved Road
- = = = Under Construction
- Bureau of Land Management
- Forest Service
- National Park Service
- Private; other
- State
- State Fish and Game

R 17 E



US Dept. of the Interior
Bureau of Land Management
Twin Falls District, Idaho

No warranty is made by the Bureau of Land Management. The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed.

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Twin Falls District
Shoshone Field Office
400 West F Street
Shoshone, Idaho 83352**

CATEGORICAL EXCLUSION REVIEW SHEET

NEPA No. DOI-BLM-ID-T030-2011-0042-CX

A. Project Description

The Bureau of Land Management (BLM), Shoshone Field Office has received a right-of-way application from Idaho Power Company (IPC) requesting to renew and amend an existing right-of-way. The right-of-way grant identified as IDI-14990 is for a portion of the Midpoint to Hydra 138 kV power transmission line. This right-of-way grant was originally issued to Idaho Power Company July 12, 1979 for a term of 30 years. The grant, as currently authorized, allows for the maintenance of the power line on 2.76 acres of public land that consists of a corridor approximately 1 mile long and 30 feet wide. The proposed action is to renew the right-of-way grant for a term of 30 years with an amendment to increase the width of the right-of-way corridor from 30 feet to 50 feet and relinquish a portion of the right-of-way that was patented to Idaho Power Company in 1992. The increase in width is being requested to meet standards required in the National Electric Safety Code for this size and type of power line and would not authorize new uses or development outside of the original right-of-way boundary. The right-of-way with these changes in width and length would be approximately 0.77 miles (4,059 feet) long by 50 feet wide and encompass approximately 4.66 acres of public lands.

B. Consideration of Extraordinary Circumstances

This Categorical Exclusion Review Sheet documents the review of the proposed action to determine if any of the extraordinary circumstances described in 516 DM 2, Appendix 2 apply. If any of the extraordinary circumstances apply to the proposed action, then an EA or EIS must be prepared. Any evidence or concerns that one or more of the exceptions may apply must be brought to the attention of the manager who is authorized to approve the proposed action.

1. The proposed action would not have any significant impacts on public health or safety.

The operation and maintenance of the power distribution line would not have any significant impacts on public health and safety. The right-of-way would contain terms, conditions and stipulations that would require Idaho Power Company to comply with Federal and State standards for public health and safety, environmental protection, operation, and maintenance of, or for, such use. The authorized officer has the ability to suspend, in whole or in part, the right-of-way grant if unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.

2. The proposed action would not have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

There are no natural resources and unique geographic characteristics such as historic or cultural resources; park, recreation, refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; national monuments; or other ecologically significant or critical areas that would be significantly impacted by the proposed action.

A cultural resource records and field review was conducted for the project area in July, 2011. Based on the information from the review it was determined with concurrence from the State Historical Preservation Office (SHPO) that no eligible cultural resources would be affected by the proposed action. Any maintenance of the powerline that would result in disturbance within the right-of-way would require additional review and coordination between IPC, BLM, and SHPO.

A wildlife review of the proposal identified the renewed right-of-way would be located within areas known or suspected to support foraging and nesting habitat for raptors and migratory birds. If operations and maintenance activities occur during the nesting season there is a potential for these species to be impacted. However, Idaho Power has developed an Avian Protection Plan that identifies best management practices that would limit impacts to raptors and migratory birds. Terms and Conditions within the right-of-way grant would require Idaho Power Company follow their Avian Protection Plan.

3. The proposed action would not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].

The proposed action is in conformance with the Monument Resource Management Plan (RMP). The RMP established the land use allocation and goals for the affected public land; as such, there are no unresolved conflict regarding other uses of these resources. The proposal to authorize a right-of-way to IPC for the operation and maintenance of an existing 138 kV power transmission line is not highly controversial, nor are the effects expected to generate future controversy. The power transmission line was constructed in 1979 and the BLM is not aware of any controversy surrounding the use of the line between then and the present time.

4. The proposed action would not have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

The proposed action does not involve highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. The use has been occurring in the project area since 1979 without involving highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. The

environmental process for the proposed action has not identified any effects that may involve highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

5. The proposed action would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.
The proposed action is not connected to another action that would require further environmental analysis and would not set a precedent for future actions that would normally require environmental analysis.

6. The proposed action would not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

The proposed action does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

7. The proposed action would not have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.

A cultural resource records and field review was conducted for the project area in July, 2011. Based on the information from the review it was determined with concurrence from the State Historical Preservation Office (SHPO) that no eligible cultural resources would be affected by the proposed action. Any maintenance of the powerline that would result in disturbance within the right-of-way would require additional review and coordination between IPC, BLM, and SHPO.

8. The proposed action would not have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated critical habitat for these species.

Sage-grouse, a Candidate species, is the only species protected under the Endangered Species Act that may occur within the area of the right-of-way. A review of the areas sage-grouse inhabit identified that the issuance of the right-of-way is not an action that would result in alterations of existing sage-grouse habitat or detectible impacts to the local sage-grouse population that uses the adjacent habitat.

9. The proposed action would not violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.

The BLM issues right-of-way grants accordance with Title V of the Federal Land Policy and Management Act of 1976 and the BLM regulations at 43 CFR 2800. Under these regulations the right-of-way grant would specify that all applicable Federal, State and local laws be adhered to. The BLM has the ability to suspend and/or terminate the right-of-way if a Federal, State or local laws is violated. There are no tribal laws in effect for the project area.

10. The proposed action would not have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

The proposed action would not have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). The effect would be the same as for the general population in the general area.

11. The proposed action would not limit access to ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly affect the physical integrity of such sacred sites (Executive Order 13007).

The proposed action would not limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly affect the physical integrity of such sacred sites. The use has been occurring in the project area since 1979 without any conflicts arising.

12. The proposed action would not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

The right-of-way would contain stipulations that would require IPC to be responsible for weed control on the disturbed areas within the limits of the right-of-way. IPC will also be responsible for ensuring that the undercarriages of equipment and/or vehicles used in the operation and termination of the right-of-way be free of all soil and plant material prior to operating on public lands. These stipulations/requirements would reduce the risk of introduction, continued existence, or spread of noxious and non-native invasive species.

C. Consultation and Preparation

The review of potential impacts of the proposed action was described by the following:

Kasey Prestwich, Realty Specialist/Project Lead

Gary Wright, Wildlife Biologist

Lisa Cresswell, Archeologist/Shoshone Field Office NEPA Coordinator

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

Issuing Office
SHOSHONE FIELD OFFICE

Serial Number
IDI-14990

1. A (right-of-way) (permit) is hereby granted pursuant to:

- a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
- b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. Other (*describe*) _____

2. Nature of Interest:

a. By this instrument, the holder:

**IDAHO POWER COMPANY
1221 W IDAHO STREET
PO BOX 70
BOISE, ID 83702**

receives a right to ~~construct~~, operate, maintain, and terminate **an overhead 138 kV power transmission line**, on public lands described as follows:

**Boise Meridian,
T. 7 S., R. 17 E.,
sec. 10, NE¹/₄SE¹/₄ and SE¹/₄NE¹/₄;
sec. 11, NW¹/₄SW¹/₄ and S¹/₂NW¹/₄.**

- b. The right-of-way or permit area granted herein is **50 feet wide, and about 0.77 miles long and contains about 4.66 acres**, more or less.
- c. This instrument shall terminate on **December 31, 2044, about 30 years** from its effective date 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** **may not** be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of the 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 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 rental value as determined by the application of sound business management principles, and so far as practicable and feasible, 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 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. Each grant issued pursuant to the authority of paragraph (1)(a) 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, plans, maps, or designs set forth in exhibit(s) **A (Stipulations) dated _____ and B (Right-of-Way Map(s))**, 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)	_____ (Signature of BLM Authorized Officer)
_____ (Title)	_____ (Title)
_____ (Date)	_____ (Effective Date of Grant)

EXHIBIT A
RIGHT-OF-WAY GRANT
IDI-149990 STIPULATIONS

1. Operations and Maintenance of the authorized facilities will be conducted as provided within the Master Agreement (BLM-MA-ID-001), approved April 6, 2012 or as amended.
2. The Holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant or permit.
3. 90 days 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.
4. The Holder shall notify the authorized officer of any change of mailing address within 30 days of such change.
5. There is reserved to the Secretary of the Interior, or his/her lawful delegate, the right to grant additional rights-of-way or permits for compatible uses on, over, under or adjacent to the land involved in this grant.
6. The Holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the Holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management survey monuments or references are obliterated during Holder's operations, the Holder shall secure the services of a registered land surveyor or Bureau cadastral surveyor to restore the disturbed monument and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands of the United States, latest edition. The Holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the Holder shall be responsible for the survey cost.
7. The 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.
8. Holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
9. 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. If at any time the Holder wishes to reconstruct, remodel or relocate any portion of the right-of-way, or the improvements, in a manner that has been determined to be a substantial deviation, prior written authorization must be obtained from the authorized officer. No such authorization will be given unless an application is

filed subject to applicable regulations.

10. The Holder should avoid travel on roads, trails, and maintenance routes that would create ruts greater than 3 inches in depth. Because of constrained outage windows, some maintenance activities will necessarily occur where ruts will be greater than 3 inches in depth. If the creation of ruts greater than 3 inches is unavoidable, the Holder will 1) notify the authorized officer so remedial actions can be determined; 2) flag avoidance areas within the previously disturbed road, trail or maintenance route surface to minimize or avoid resource damage; and 3) upon completion of the maintenance project, and when the conditions are appropriate for remedial work, the Holder will re-grade the road, trail or maintenance route to a condition comparable to the condition prior to disturbance, or as required by the authorized officer.
11. Pursuant to 43 CFR 10, the Holder of this authorization must immediately notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), the Holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. The BLM Authorized Officer will determine avoidance, protection or mitigation measures in consultation with the Holder, Idaho SHPO, and affected Tribes. Costs associated with the discovery, evaluation, protection or mitigation of the discovery shall be the responsibility of the Holder.
12. Any cultural and/or paleontological resource (historic or prehistoric site or object, or fossil) discovered by the Holder, or any persons working on his behalf on public or Federal land 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. The Holder will be responsible for the cost of evaluation and mitigation, and any decision as to proper avoidance, protection or mitigation measures will be made by the authorized officer after consulting with the Holder and others under Section 106 of the National Historic Preservation Act.
13. Operations and Maintenance within the ROW shall comply with the most current nest management guidelines provided by the U.S. Fish and Wildlife Service (FWS) as clarified in ID-IB-2010-039, or most recent guidance. .
14. Unless otherwise agreed to by the authorized officer in writing, powerlines shall be constructed in accordance to standards outlined in the most recent version of the report, Suggested Practices for Avian Protection on Power Lines (Avian Power Line Interaction Committee, 2006). 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.
15. If eagles are found in the project area the Holder is responsible for coordinating additional appropriate analysis and mitigation with the FWS and BLM to ensure compliance with the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668 et seq. The Holder must complete its obligations under the Eagle Act, including completing any required FWS coordination and obtaining any necessary permits, before the BLM will consider issuing a notice to proceed for any project that is likely to result in take of bald eagles and/or golden eagles.

16. The Holder shall not engage in facility maintenance, utility maintenance, or any project related work within 1 km (0.62 miles) of occupied or undetermined status leks that results in or will likely result in disturbance to lekking birds from 6:00 PM to 9:00 AM from March 25th to May 15th.
17. The right-of-way may now or in the future contain threatened, endangered, or special-status plants and/or animals, or their habitats. BLM may require modifications to or disapproval of ongoing and/or proposed activities that may harm such a species or their habitat. Project specific studies may be required to inventory special status species prior to activities that have the potential to harm these species or their habitat. BLM will not approve ground-disturbing activities that may affect threatened or endangered species or critical habitat designated by the U.S. Fish and Wildlife Service until BLM completes its consultation obligations under applicable requirements of the Endangered Species Act as amended, 16 USC 1531 et seq., including implementation of additional mitigation requirements necessary to avoid impacts to special status species.
18. The Holder shall be responsible for weed control on areas disturbed within the limits of the right-of-way. The Holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
19. The Holder is responsible for ensuring the undercarriages of equipment and/or vehicles used within the right-of-way are free of all soil and plant material prior to operating on public lands to reduce the establishment of new invasive, non-native species and/or the spread of existing species to new areas.
20. Holder shall comply with the applicable Federal and State Laws and regulations concerning the use of pesticides (i.e. insecticides, herbicides, fungicides, rodenticide, and other similar substances) in all activities/operations under this grant. Pesticides shall be used only in accordance with their registered uses and within the limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use. Pesticides shall not be permanently stored on public lands authorized for use under this grant. Applicator(s) shall hold a current applicator's license.
21. The Holder(s) shall comply with all applicable Federal, State and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any Hazardous Material, as defined in this paragraph, that will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended, (hereinafter "CERCLA") and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., as amended, (hereinafter "RCRA") and its regulations. The term hazardous material also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, 42 U. S. C. § 2011 et seq., as amended. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42

U.S.C. § 9601(14), nor does the term include natural gas.

22. The right-of-way 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 U.S.C. § 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.) on the right-of-way (unless the release or threatened 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 the Holder, its agent, or unrelated third parties.
23. The Holder(s) shall comply with the Toxic Substances Control Act of 1976 as amended, 15 U.S.C. § 2601 et seq. (1982) with regards to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation, and Liability Act, 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 shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.