

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
CHALLIS FIELD OFFICE**

Decision Record

For the

**P-16 Furey Lane Water Conservation and Reconnect Project Environmental Assessment
DOI- BLM-ID-I030-2014-0002-EA
IDI-37700**

The Bureau of Land Management (BLM) - Challis Field Office (CFO) received a request from Custer Soil and Water Conservation District (CSWCD) to coordinate implementation of the proposed P-16 Furey Lane Water Conservation and Reconnect Project (project). The project involves restoration of fish habitat, fish habitat connectivity, and stream flow conservation in the Pahsimeroi River through stream channel restoration, fish passage barrier removal, irrigation diversion system upgrades, and increases in irrigation efficiency. The CSWCD is serving as the Project sponsor, and has provided guidance and coordination to the private land agricultural irrigators. The irrigators have applied for a Federal Land Management Policy Act Right of Way (FLPMA ROW) as the Furey Lane/P-16 Irrigation Company for access and approval to reconstruct and maintain the P-16 irrigation point of diversion (P-16 POD), ditch, and underground pipeline to convey decreed Pahsimeroi River water rights across BLM administered land to private lands in the vicinity of Furey Lane. In conjunction with the irrigation infrastructure improvements, the Idaho Department of Fish and Game (IDFG) Screen Program has also applied for a ROW for installation and maintenance of the associated fish screen, access road, and fish bypass pipe. Reaches of the Pahsimeroi River that are occupied by migratory anadromous salmonids listed as threatened under the Endangered Species Act (ESA) occur downstream of the project area. The Pahsimeroi River in the project area is ESA designated critical habitat for Chinook salmon, steelhead, and bull trout. However, due to instream structures that impede passage and annual dewatering caused by natural infiltration coupled with irrigation withdrawals, migratory anadromous salmonids have had limited to no access to the project area. Installation of the fish screen and bypass pipe is essential to preventing entrainment of fish present in the project area currently and following implementation of the water conservation actions intended to improve access for ESA listed migratory anadromous salmonids to the project area.

The proponents have requested to upgrade the irrigation infrastructure as a part of ongoing ESA stream channel and flow restoration activities, which have been occurring in the Pahsimeroi River subbasin since the mid 1990's. The proposed project would convert an open ditch to a buried pipeline, allowing for water savings and consequently lower rates of diversion from the Pahsimeroi River at the P-16 POD. The irrigation improvements would also allow for cessation of use of water rights from Big Creek that are conveyed via the Hamilton ditch to the P-16 ditch. Additionally, the project would replace an instream push-up dam that is a fish passage barrier with a lockable and measurable diversion structure, and include installation of a National Marine

Fisheries Service (NMFS) compliant fish screen to eliminate fish entrainment within the irrigation system. The proposed project is intended to restore stream flow and improve aquatic habitat quality and connectivity between the lower Pahsimeroi River and the project area, and contribute to future restoration of flow and fisheries connectivity within the Pahsimeroi River drainage.

This project proposal was reviewed and ranked by the Upper Salmon Basin Watershed Program Technical Team on September 4th, 2013. The Technical Team consists of representatives from the Idaho Office of Species Conservation, IDFG, Shoshone-Bannock Tribes, Natural Resources Conservation Service, Lemhi Soil and Water Conservation District, BLM, Salmon-Challis National Forest, NMFS, U.S. Fish and Wildlife Service (USFWS), The Nature Conservancy, Trout Unlimited, Idaho Department of Water Resources, Idaho Department of Environmental Quality, CSWCD, and the U.S. Bureau of Reclamation (BOR). The project priority ranking was high (e.g. ≥ 61) with a score of 105 out of a possible 130. This ranking was based on significant beneficial impacts to habitat limiting factors for instream flow and physical fish barriers at the project area scale and the larger reach scale of the middle Pahsimeroi River between Hooper and McCoy Lanes. Additionally, BLM coordinated with IDFG as described in WO IM 2012-043 Greater Sage-Grouse Interim Management Policies and Procedures. IDFG concurred that “given the overall benefits of the proposed Project the Idaho Department of Fish and Game concludes the project is likely to maintain sage-grouse habitat”. BLM would be in compliance with guidance provided in WO IM 2012-043.

The BLM-CFO conducted internal scoping during three project proposal planning meetings, held between October 2013 and January 2014. On December 13, 2013, project information was uploaded to the BLM e-Planning site, and the BLM-CFO Field Manager sent a scoping letter to interested members of the public, state and federal agencies, Shoshone-Bannock Tribes, and the commissioners from both Custer and Lemhi counties requesting comments on the P-16 Furey Lane Water Conservation and Reconnect Project. The letter sought public input for the project and contained a list of preliminary issues identified during the October 31, 2013 meeting. Written feedback, in the form of four letters, was received between January 10 and 13, 2014. Two of the letters were in support of the project proposal; the other two letters requested additional clarification on potential impacts to private property values and access, potential impacts to Greater sage-grouse and pygmy rabbit habitat as well as potential changes to livestock distribution and impacts to wildlife as a result of ditch abandonment associated with the project. The Best Management Practices (BMPs), design features, and stipulations described as part of the Proposed Action in the Environmental Assessment (EA; pages 12-29) and effects analyses (EA, pages 38-93) address these comments. Potential impacts to private land property values are disclosed in the EA under “Economic and Social Values” (EA, pages 41-44).

Following scoping, the BLM completed the P-16 Furey Lane Water Conservation and Reconnect Project EA which analyzed and disclosed environmental impacts of implementing three management alternatives, including a no action alternative, on BLM administered lands in the

project area. The project area and actions proposed under the alternatives include portions of the Pahsimeroi River and portions of the BLM County Line grazing allotment. The EA included project design criteria and best management practices to minimize impacts as well as management alternatives to address resource issues identified during scoping. This document incorporates by reference the P-16 Furey Lane Water Conservation and Reconnect Project EA. The alternatives fully analyzed in the EA were developed by the BLM in coordination or consultation with the project proponents, local landowners, conservation groups, state agencies and other federal agencies. Additional information is available in the EA, which is available at the CFO or on the internet at: <https://www.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=37612&dctmId=0b0003e880627424>

Decision

It is my decision is to: 1) authorize the Idaho Department of Fish and Game and their agents to implement the proposed Furey Lane Water Conservation and Reconnect Project on BLM administered lands as described in the EA (under Description of Alternative 1 – Proposed Action pages 12-29), including construction activities related to the installation of the IDFG fish screen and bypass pipe and upgrading of existing designated open roads across BLM administered land. The activities authorized under this decision will be completed between July 15, 2015 and March 1, 2016, and 2) issue a ROW (IDI-37700) to the Idaho Department of Fish and Game, as described in the EA (under Description of the Proposed Action (EA pages 12-29) for installation and maintenance of a new fish screen and bypass pipe, and continued access across and maintenance of existing designated open roads across BLM administered land, encumbering an approximate total of 4.7 acres of BLM administered land.

The ROW grant (IDI-37700) will be issued to the Idaho Department of Fish and Game with the attached BMPs and stipulations (Exhibit A), and as outlined in the EA under the heading “Description of Alternative 1 – Proposed Action” (EA, pages 12-14). The grant will be authorized for a term of 30 years issued under the authority of Public Law 94-579 (FLPMA) and the regulations found at 43 CFR 2800. Rental fees for the ROW will be exempt in accordance with 43 CFR 2806.14(a)(2) for IDI-37700.

Rationale for Decision

The potential for impacts from the alternatives were evaluated for 13 affected resources (EA, Table 4 and pages 38-93). Insignificant adverse impacts were identified from surface and vegetation disturbance during construction and maintenance activities related to the installation of the IDFG fish screen and bypass pipe and upgrades and/or maintenance of existing designated open roads across BLM administered land. However, most impacts would be limited spatially (project area) and temporally (8-10 weeks of implementation and 3-5 years anticipated to

establish revegetation). The potential for impacts, both short and long term, are further limited by design features, BMPs, and stipulations included as part of the proposed action.

The proposed action for which the Idaho Department of Fish and Game, or their agents, are authorized to implement incorporates all activities, design features and BMPs described in the EA, under the heading “Description of Alternative 1 – Proposed Action” (EA pages 12-29). The authorized construction activities would also include design features, BMPs, and stipulations described in the EA under heading “Best Management Practices” (EA pages 24-29) and included herein as Exhibit A. The cumulative impacts of the proposed action were also considered relative to the impacts associated with past, present, and reasonably foreseeable future actions in the Pahsimeroi River subbasin (EA, pages 94-106). Work windows for the project have been established as July 15, 2015-March 1, 2016. Work windows are not necessary for fisheries resources due to the project location and existing stream channel conditions. The primary rationale for establishment of the above work windows is to mitigate the potential for impacts to terrestrial species including sage-grouse, migratory birds, big game, and other wildlife.

For the affected resources considered in the EA, only insignificant negative impacts, limited both in spatial and temporal extent, were identified. The EA describes numerous beneficial impacts from the entire proposed action, primarily to water quality and quantity, riparian vegetation, aquatic habitat and connectivity for both sensitive and ESA listed fish as well as designated critical fish habitat for Chinook salmon, steelhead, and bull trout. Beneficial impacts specifically resultant of installation, operation and maintenance of the IDFG fish screen were identified for two affected resources, including: Threatened/Endangered and Sensitive fish; Fisheries and Tribal Treaty Rights. The most pronounced benefits specific to the IDFG fish screen and bypass system is the elimination of a fish migration barrier which is a source of fish entrainment and potential mortality. In combination with other reasonably foreseeable stream flow conservation and habitat connectivity restoration efforts, the project, as a whole, will contribute to recovery of ESA listed fish populations in the Pahsimeroi River and Big Creek.

BLM coordinated with IDFG as described in WO IM 2012-043 Greater Sage-Grouse Interim Management Policies and Procedures. IDFG concurred that “given the overall benefits of the proposed Project the Idaho Department of Fish and Game concludes the project is likely to maintain sage-grouse habitat”. The BLM would be in compliance with guidance provided in Washington Office (WO) IM 2012-043.

The BLM CFO began ESA Section 7 Consultation with the NMFS and the USFWS using streamlining procedures at the March 25, 2014 Salmon-Challis Level 1 Team meeting. Prior to the February 25, 2015 Salmon-Challis Level 1 Team meeting, the BLM CFO submitted a draft BA (dated 2/11/2015) for the proposed project. During the February 25, 2015 meeting, the Level 1 Team consisting of Fisheries Biologists from the BLM, SCNF, NMFS, and USFWS, reached consensus that the proposed project was likely appropriate for implementation under the recently

completed ESA consultation for programmatic restoration activities in Idaho (NMFS No.: WCR-2014-832, USFWS No. 01EIFW00-2014-F-0456).

Following guidance received from NMFS at the February 25, 2015 Level 1 meeting, design review by NMFS engineers was also conducted. Following approval from NMFS engineering review on March 6, 2015, BLM submitted the project initiation forms. The forms are required for consultation coverage under the Idaho Habitat Restoration Programmatic BO and were submitted to NMFS and USFWS on May 5, 2015. On May 7, 2015 NMFS provided email correspondence that if the project were implemented consistent with the programmatic's design criteria and its mandatory terms and conditions, no additional ESA consultation is required by the BLM (the designated lead Federal action agency) or other Federal agencies involved in the project. In this same correspondence, NMFS stated that "Short term adverse effects to anadromous ESA listed fish are not expected given the project occurs several miles upstream of known occupied habitat. Following implementation in 2015 (during approved work windows), fish habitat in the action area, including occupied habitat several miles downstream, is expected to benefit from the projected increases in Pahsimeroi River (14.32 cfs) and Big Creek (9.5 cfs) discharge. Additional project benefits include: improved fish passage conditions, reduced sediment delivery, and enhanced and expanded riparian areas. Project benefits are consistent with draft recovery plan recommendations for the Pahsimeroi River populations of Snake River Chinook salmon and steelhead".

On May 13, 2015, USFWS acknowledged review of the project information and determined that the project was appropriate for consultation coverage under the Idaho Habitat Restoration Programmatic BO (01EIFW00-2014-F-0456). USFWS acknowledged that, after evaluating the project's potential to expand brook trout distribution into areas occupied by bull trout, indicated "the project is not expected to significantly influence brook trout movement into bull trout occupied habitat", and therefore was appropriate for implementation under the aforementioned programmatic consultation.

It was also determined that the proposed action is in conformance with the 1999 Challis Resource Management Plan (RMP). Specifically, the RMP goals and objectives identified in the EA were determined to conformant with the proposed action (EA, pages 7-8).

Protest and Appeals Information:

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 Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The Appellant has the burden of showing that the decision appealed is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 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 also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent 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 if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you have any questions, feel free to contact Mike Whitson, CFO Hydrologist (208) 879-6215, Todd Kuck, CFO Manager at (208) 879-6206, or myself at (208) 879-6250.

/s/ Bart G. Zwetzig, Acting Field Manager
June 2, 2015

EXHIBIT A
Construction and Operations
STIPULATIONS
IDI-37700

The following Best Management Practices (BMPs) will be applied to all construction activities and/or maintenance activities associated with project implementation and long-term operation of the ROW, as appropriate. This list includes, but is not limited to, applicable conservation measures required for project components covered by the NMFS (2015) and USFWS (2015) Programmatic ESA Section 7 Formal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Habitat Restoration Projects.

- Prior to construction, the project area will be flagged to identify the following: (1) Sensitive resource areas, such as areas below ordinary high water, spawning areas, springs, and wetlands; (2) equipment entry and exit points; (3) road and stream crossing alignments; (4) staging, storage, and stockpile areas; (5) no-spray areas and buffers for herbicides.
- Temporary erosion controls, such as silt fences, weed-free straw matting/bales or fiber wattles will be installed before any significant alteration of the project area, and will be appropriately installed down slope of project activity with the riparian buffer area until site rehabilitation is complete. *The Catalog of Stormwater BMP, Idaho Department of Environmental Quality, for Idaho Cities and Counties* (IDEQ 2005) will be cited for construction direction. Construction spill prevention and control will be in accordance with BMP 8: *Spill prevention and control*. Once the site is stabilized, temporary erosion control measures must be removed.
- Adequate materials for the emergency control of erosion and chemical spills will be maintained on site at all times, including: (1) An adequate supply of sediment control materials (e.g. silt fence, straw wattles, certified weed-free straw bales); and (2) an oil-absorbing floating boom and absorbent pads whenever surface water is present.
- Sediment will be removed from erosion controls once the sediment has reached one-third of the exposed height of the control. If inspections show that the controls are ineffective, crews will be immediately mobilized to repair, replace, or reinforce controls as necessary.
- Contractors will be required to have a spill containment kit of appropriate size for the equipment used at the construction site. If spills of hazardous materials (including petroleum products) occur on site in excess of 25 gallons, the site supervisor shall immediately notify Idaho Department of Environmental Quality and the BLM, in that order.
- Construction equipment and materials staging, including refueling areas, will occur away from streams (150 feet minimum distance). All possible steps will be taken to minimize the possibility of machine lubricants entering the stream (i.e., equipment will be leak free prior to arrival on site and inspected daily).
- All equipment will be pressure washed to remove any excess oil, grease, or weed seeds before arriving at the work site.
- Machinery will be operated from the top of the streambank on adjacent upland and developed areas at each site to the maximum extent practicable. Equipment will not be driven or operated in flowing water.

- Hydraulic fluids used in any vehicle that will be operated in live water will be non-toxic to salmonids.
- No uncured “green” concrete will be allowed to enter the active stream channel.
- All project work would cease during heavy precipitation events (>1.6-inches in 24 hours [5-YR, 24-HR Storm Event]) in order to minimize resource damage. Project work will not occur until ground is sufficiently dry that wheeled equipment does not leave ruts with depth greater than 2-inches. Additionally, ground disturbing activities would not occur during wet conditions (i.e., during or immediately following rain events).
- Sequence or schedule work to reduce exposed bare soil to wind erosion. Water may be used to control dust.
- Any waste liquids generated at the staging areas will be temporarily stored under cover on an impervious surface such as tarpaulins until such time they can be properly transported to and treated at an approved facility.
- Heavy equipment will be selected (when possible) and operated in a manner that minimizes adverse effects to the environment (e.g., minimally-sized, low pressure tires, minimal hard turn paths for tracked vehicles, temporary mats or plates within wet areas or sensitive soils).
- Access to the construction site will occur on existing BLM roads and 350 feet of temporary access road. For construction of the temporary road, minimize soil disturbance and compaction within 150 feet of a stream, waterbody, or wetland by clearing vegetation to ground level and placing clean gravel over geotextile fabric, unless otherwise approved in writing (email) by NMFS.
- Following completion of construction, all materials for temporary road construction will be removed and disposed of properly.
- Complete earthwork (including drilling, excavation, dredging, filling and compacting) as quickly as possible. During excavation, stockpile native streambed materials above the bankfull elevation, where it cannot reenter the stream, for later use.
- Rock for instream structures will not be mined from any stream.
- All construction materials must come from outside of the construction site, and cannot be procured from BLM administered lands, unless approval is given by the authorized officer (Field Office Manager or his/her representative). The exceptions to this requirement are mineral materials (riprap, fill, gravel) that were procured with a valid BLM permit.
- CSWCD will ensure that adequate sanitation facilities are provided on site during construction, in accordance with 29 CFR 1910.141(c)(1)(i).
- All instream work will be done after the streambed has been dewatered. Dewatering and rewatering will be done slowly to minimize the suspension of disturbed sediments and avoid excessive downstream turbidity.
- Reconstructed stream channels will be “pre-washed” into a reach equipped with sediment control devices, prior to reintroduction of flow to the stream. For this project, it is suitable to divert the “pre-wash” water into the existing P-16 ditch system.
- Fish salvage will be conducted by IDFG during dewatering activities. When work area isolation is required, a fish biologist will determine how to remove ESA-listed fish, with least harm to the fish, before inwater work begins. This will involve either passive movement of fish out of the project reach through slow dewatering, or actively removing the fish from the project reach. Should active removal be warranted, a fish biologist will

clear the area of fish before the site is dewatered using one or more of a variety of methods including seining, dipping, or electrofishing, depending on specific site conditions. A fish biologist will conduct or supervise the following activities: slowly remove approximately 80% of the streamflow from the work area to allow some fish to leave work area volitionally; install blocknets; capture fish through seining and relocate to streams; then electrofish to capture and relocate fish not caught during seining; continue to slowly dewater the stream reach; collect any remaining fish in cold-water buckets and relocate to the stream. Use aerators or replace the water in the buckets at least every 15 minutes with cold clear water. While block nets are set, inspect them regularly for fish and remove any living to an area far enough away to avoid additional impingement risk. All of these activities will be completed on the same day. All handling of fish, using any method, will be conducted by or under the direction of a fish biologist, using methods directed by the following: NMFS Guidelines for Electrofishing Waters Containing Salmonids Listed under the ESA (NMFS 2000). For each project, the Project Sponsor will report the number of fish handled to NMFS and USFWS in the Project Completion Form (NMFS 2015; USFWS 2015).

- When reintroducing streamflow to a dewatered stream reach, the Project Sponsor (or their representative) will monitor the stream for turbidity. An appropriate and regularly calibrated turbidity meter, measuring nephelometric turbidity units (NTUs), is required. A sample must be taken prior to anticipated turbidity pulses at a relatively undisturbed area approximately 100 feet upstream from inwater disturbance to establish background turbidity levels. A sample must then be taken every hour and approximately 600 feet downstream from the point of discharge, or most appropriate downstream site, during sediment pulses and be compared against the background measurement. If turbidity levels exceed 50 NTUs over background levels for two consecutive readings (2 hours), the Project Sponsor must cease work immediately and take measures to reduce turbidity before continuing to reintroduce streamflow.
- All operators of construction equipment and/or construction personnel are required to immediately cease operation if a sick, injured, or dead specimen of a threatened or endangered species is found in association with project activities. Care will be taken in handling dead specimens in order to preserve biological material in the best possible condition for later analysis of cause of death.
- Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person 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 any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- Pursuant to 43 CFR 10.4(g), the holder of this authorization must immediately notify the authorized officer by telephone, with written confirmation, 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.

- Minimize the removal of riparian vegetation, any riparian vegetation removed during construction will be preserved and replanted during site reclamation.
- Vegetation may be grubbed only from areas where permanent ground alteration will occur. Vegetation is to be cut at ground level and root wads retained where temporary clearing occurs.
- Each area requiring revegetation will be replanted prior to, or at the beginning of, the first growing season following construction. Reestablishment of vegetation will be achieved in disturbed areas to at least 70% of pre-project conditions within 3 years. An appropriate mix of species will be used to achieve establishment and erosion control objectives, preferably comprised of forb, grass, shrub, or tree species native to the project area or region and appropriate to the site. Non-native or invasive species will not be used. Vegetation, such as willow, sedge and rush mats, will be salvaged from disturbed or abandoned floodplains, stream channels, or wetlands to be replanted during site restoration. Fencing will be installed as necessary to protect the vegetation. Surface fertilizer will not be applied within 50 feet of any stream channel, waterbody, or wetland. Short-term stabilization measures may include the use of weed-free certified straw, jute matting, and other similar techniques.
- Weed infestations near the project area would be identified by the construction crews or on-site construction supervisor(s) prior to construction. Heavy equipment will avoid unnecessarily entering those areas to reduce the potential for spreading of invasive species.
- Riparian and streambank disturbance will be kept to a minimum at each site. Large willows that are removed will be salvaged with intact root-masses and replanted on site to expedite site recovery. All disturbed streambanks will be replanted with willows and other native plants and reseeded with a native seed mix.
- All access road improvement work (not including proposed new temporary road construction) will be done within the existing road prisms on BLM administered land. Placement of culverts, should it be necessary, will follow established BLM guidelines.
- Construction and/or maintenance in upland sites will be done so as to keep soil, grass, shrub and woody vegetation disturbance to a minimum. The upland construction sites will be reseeded with a BLM approved seed mix.
- Any large woody debris (LWD), topsoil, and native channel material displaced by construction will be stockpiled for use during site restoration.
- Treated wood may not be used in a structure (e.g., bridge) that will be in or over water or permanently or seasonally flooded wetlands.
- Abandoned ditches shall be backfilled to ensure that future high flows do not breach the ditch plug, and shall be backfilled to a height at least equivalent to the surrounding existing grade within that reach.
- Right-of-way holder shall remove only the minimum amount of vegetation necessary for the use and maintenance of the existing road.
- Right-of-way shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. 'Waste' means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

- The holder shall be responsible for weed control on disturbed areas 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). Control measures must be done in accordance with the Challis Field Office Integrated Weed Management Program. Coordination with the Challis Field Office Weed Specialist shall be completed **before** applying herbicides.
- The holders of right-of-ways, IDI-37646 and IDI-37700, agree 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.
- There is reserved to the Authorized Officer, the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.
- Ninety (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.