

**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-T030-2014-0005-CX

A. Background

BLM Office: Shoshone Field Office. Lease/Serial/Case File No.: IDI-37567

Proposed Action Title/Type: Qwest, Dietrich Fiber Optic Right-of-Way

Location of Proposed Action:

Boise Meridian, Idaho

T. 5 S., R. 18 E.,

sec. 13, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$;

sec. 24, E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$;

sec. 25, E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$.

T. 6 S., R. 18 E.,

sec. 01, lot 1, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$;

sec. 12, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$.

(For further detail refer to Attachment A, Location Map)

B. Proposed Action

The Bureau of Land Management (BLM), Shoshone Field Office received an application from Qwest Communications DBA CenturyLink QC (Qwest) on May 20, 2013 for a right-of-way to construct, operate and maintain a fiber optic cable on public land in Lincoln County, Idaho. The proposed right-of-way would consist of a non-contiguous corridor 10 feet wide by approximately 19,240 feet (3.64 miles) long, containing approximately 4.42 acres. The proposed term for the right-of-way is 30 years, at which time the right-of-way would be terminated or re-authorized.

Qwest would use the proposed right-of-way to provide data service through a fiber optic cable to the Dietrich High School. The proposed right-of-way for the fiber optic line would begin at an existing fiber optic line located on the north side of Highway 26/93, near the junction of the highway and the county road known as S. 750 E. From this intersection the proposed right-of-way would be located along the west side of the county road with the fiber optic line being located approximately 4 feet (to the east) from the Crater Butte Allotment fence (refer to detail drawings in the decision file). The fiber optic line would be buried approximately 36 inches under the soil surface. The line would be plowed in where possible, but where there is excessive rock a rock hammer and trencher would be used to bury the fiber optic cable. At approximately every 10,000 feet a concrete hand hole used for access to the cable would be constructed and there would be markers placed approximately every 500 feet to identify the location of the fiber optic cable.

C. Land Use Plan Conformance

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

Date Approved: 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 would be managed under 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, and licenses would be subject to applicable environmental review procedures,...BLM would include stipulations and special conditions necessary in leases, license, and permits to ensure the protection and preservation of resources." (Monument RMP, pg. 25)

D. Compliance with NEPA

The proposed action is excluded from further documentation under NEPA in accordance with 516 DM 11.9 E (12) "(g)rants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way." The proposed right-of-way for the installation, operation, and maintenance of a fiber optic cable is within the Highway 93 and county road rights-of-way and the fiber optic cable is compatible with uses authorized by these rights-of-way.

Based on my review of the proposed action 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. A right-of-way will be offered to Qwest to install, operate, and maintain a fiber optic cable on public land in Lincoln County. See Attachment C, Draft Qwest Fiber Optic Right-of-Way, IDI-37567.

E. Signature

Authorizing Official: Elizabeth Maclean Date: 3/6/14
Name: Elizabeth Maclean
Title: Field Manager

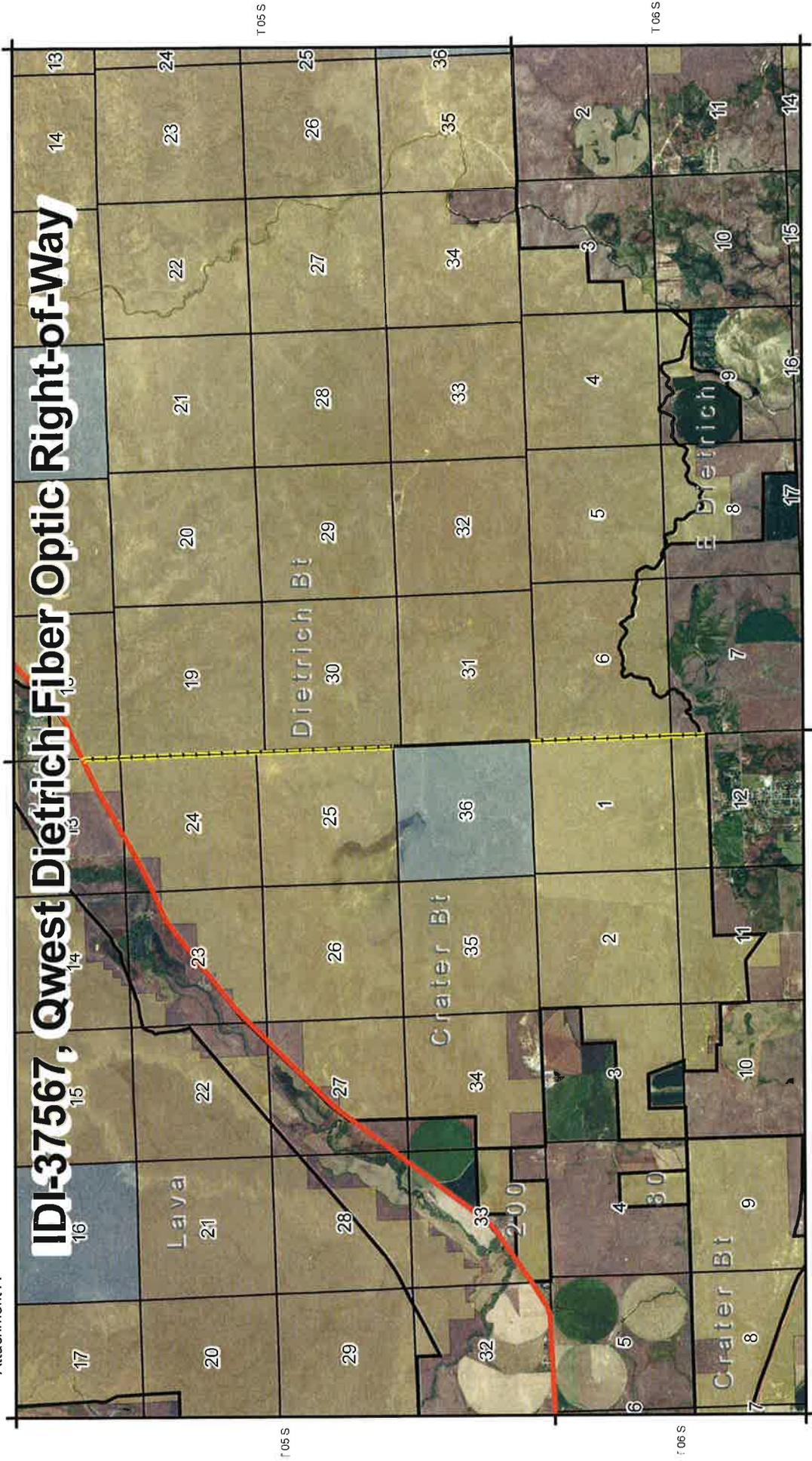
F. Contact

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

G. Attachments

- Attachment A, Qwest, Dietrich Fiber Optic Right-of-Way Location Map
- Attachment B, Qwest, Dietrich Fiber Optic Right-of-Way Categorical Exclusion Review Sheet
- Attachment C, Draft Qwest Fiber Optic Right-of-Way, IDI-37567

IDI-37567, Qwest Dietrich-Fiber Optic Right-of-Way



R 19 E

R 18 E



U.S. Department of the Interior
Bureau of Land Management
Twin Falls District, Idaho

Legend

-  Proposed_Fiber_Line
-  Bureau of Land Management
-  Forest Service
-  National Park Service
-  Private; other
-  State
-  State Fish and Game




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.

Map Created on: June 24, 2013
Data Displayed in NAD_1983_UTM_Zone_11N_Projection
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Author: kprst\swich

**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-T030-2014-0005-CX**

A. Background

The Bureau of Land Management (BLM), Shoshone Field Office received an application from Qwest Communications DBA CenturyLink QC (Qwest) on May 20, 2013 for a right-of-way to construct a fiber optic cable on public land in Lincoln County, Idaho. The proposed right-of-way would consist of a non-contiguous corridor 10 feet wide by approximately 19,240 feet (3.64 miles) long, containing approximately 4.42 acres (see attached map). The proposed term for the right-of-way is 30 years, at which time the right-of-way would be terminated or re-authorized.

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 installation, operation, and maintenance of the fiber optic cable would not have any significant impacts on public health and safety. The right-of-way grant will contain terms, conditions, and stipulations that will require Qwest to comply with Federal and State standards for public health and safety, environmental protection, operation, and maintenance.

The BLM authorized officer has the ability to suspend or terminate 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 search and survey was conducted for the area of the proposed right-of-way in September 2013. Based on the information from the records review and survey it was determined that no eligible cultural resources area located within the area of the proposed right-of-way.

A wildlife review of the proposal identified that the right-of-way would be located within habitat known or suspected to support one or more life cycle activities of five migratory bird species of concern (this does not include bird species that are also listed as BLM sensitive species). However, the issuance of the right-of-way would result in no discernible increase in human caused impacts to migratory birds above the current impacts currently occurring. Additionally, stipulations will be included in the authorization to reduce the potential for impacts by limiting activities during nesting periods.

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 allowable by the Monument Resource Management Plan. This plan established the land use allocation and goals for the affected public land; as such, there are no unresolved conflicts regarding other uses of the available resources. There are power lines and other fiber optic cables authorized within the highway right-of-way and the BLM is not aware of any controversy surrounding these uses.

A letter was sent to interested parties on July 29, 2013 informing them of the proposal and no responses were received.

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. Similar uses have been occurring in the project area without resulting in highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. Other fiber optic lines and telephone cables constructed and operated on public lands have not resulted in any impacts that have been found to be highly uncertain, potentially significant, unique or have unknown 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 does not establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects. The proposed action is not connected to another action that would require further environmental analysis and it would not set a precedent for future actions that would normally require environmental analysis. The decision to grant a right-of-way to install, operate, and maintain an fiber optic line on public lands as described would only allow that action to occur. Any proposed future projects must be evaluated on their own merits and effects.

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. The granted right-of-way would authorize the installation, operation, and maintenance of a fiber optic cable within areas of a compatible highway right-of-way.

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 search and survey was conducted for the area of the proposed right-of-way in September 2013. Based on the information from the records review and survey it was determined that no eligible cultural resources area located within the area of the proposed right-of-way. A concurrence to this determination by the State Historic Preservation Office was received on Dec 27, 2013.

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 (refer to wildlife report in the decision file) of the areas sage-grouse habitat identified that the issuance of the right-of-way is not an action that would result in alterations of exiting 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 in 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 proposed 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).

Impacts to minority or low income populations have not occurred as a result of granting other similar rights-of-way and impacts are not expected to occur as a result of the authorizing the proposed right of way.

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

Authorizing the proposed right-of-way grant for a fiber optic cable within a compatible highway right-of-way will not change access to the public lands within the area.

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).

No field visit was conducted that specifically identified noxious weeds within the area; however, it is expected that noxious weeds do occur within the area as they are often located near roads. The renewed right-of-way would contain stipulations that would 1) require Qwest to be responsible for weed control on the disturbed areas within the limits of the right-of-way and 2) ensure that the undercarriages of equipment and/or vehicles used in the operation and maintenance of the right-of-way be free of all soil and plant material prior to operating on public lands and prior to leaving the right-of-way area. These stipulations will reduce the establishment of new invasive, non-native species and reduce the spread of existing species to new areas.

C. Consultation and Preparation

Resource surveys and review of potential impacts of the proposed action was completed 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-37567

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:

**Qwest Corporation DBA
CenturyLink QC
1208 N.E. 64th St., RM 401
Seattle, WA 98115**

receives a right to construct, operate, maintain, and terminate **an underground fiber optic cable, including access, with periodic above ground terminals/pedestals** on public lands described as follows:

Boise Meridian, Idaho

T. 5 S., R. 18 E.,

sec. 13, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$;

sec. 24, E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$;

sec. 25, E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$.

T. 6 S., R. 18 E.,

sec. 01, lot 1, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$;

sec. 12, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$.

- b. The right-of-way or permit area granted herein is: **10 feet wide, and about 3.64 miles (19,240 feet) long and contains about 4.42 acres**, more or less.
- c. This instrument shall terminate on **December 31, 2043, 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 exhibits **A (Stipulations)**, and **B (Right-of-Way Location Map)**, attached hereto or located in the associated case file, 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-37567 STIPULATIONS

1. The holder, by accepting this right-of-way grant, agrees and consents to comply with and be bound by the following terms and conditions:
 - a. To the extent practicable, all Federal and State laws applicable to the authorized use and such additional Federal and State laws along with the implementing regulations that may be enacted and issued during the term of the grant.
 - b. That in the operation, and termination of the authorized use, there shall be no discrimination against any employee or applicant for employment because of race, creed, color, sex, age, religion, disability or national origin and all subcontracts shall include an identical provision.
 - c. When requested by the authorized officer, the holder shall make his equipment already at the site with operators, temporarily available for fighting fires in the vicinity of the project. Payment for such services will be made at rates determined by the authorized officer.
2. The Holder of this right-of-way grant or the Holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
3. There is reserved to the Secretary of the Interior, or his 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.
4. The authorized officer may suspend or terminate in whole or in part this right-of-way grant which has been issued when, in his/her judgment, 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.
5. Holder shall comply with all applicable federal laws and regulations existing or hereafter enacted or promulgated. In any event, 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 permit area or on facilities authorized under this permit. (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 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 shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
6. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substances 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, 42 U.S. C. 6901 et. seq.) on the permit area (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.

7. 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.
8. 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, prior written approval must be obtained from the authorized officer. No such approval will be given unless the request is authorized by law, and an application is made under applicable regulations.
9. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a pre-termination conference. This conference will be held to review the termination provisions of the grant.
10. During conditions of extreme fire danger, operations shall be limited or suspended in specific areas, or additional measures may be required by the authorized officer.
11. Any cultural and/or paleontological resource (historic or prehistoric site 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.
12. 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 right-of-way monuments or references are obliterated during 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.
13. The holder shall conduct all activities associated with the operation and termination of the right-of-way in a manner that will minimize disturbance to vegetation, drainage channels and stream banks. The holder shall take resource conservation and protection measures on the right-of-way as the authorized officer deems reasonably necessary. Areas disturbed during activities associated with the operation and termination of the right-of-way shall be reseeded at the discretion of the authorized officer with a seed mixture and rate of success to be determined by the authorized officer.
14. No activities associated with the operation and termination of the right-of-way shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3 inches deep, the soil shall be deemed too wet to adequately support construction equipment. If the holder needs to access these areas to perform required

maintenance prior written approval must be obtained from the authorized officer. Areas disturbed during activities shall be rehabilitated at the discretion of the authorized officer.

15. If snow removal from the right-of-way area is undertaken, equipment used for snow removal operations shall be equipped with shoes to keep the blade 1.5 inches off the road surface. Holder shall take special precautions where the surface of the ground is uneven and at drainage crossings to ensure that equipment blades do not destroy vegetation.
16. The holder shall contact the authorized officer prior to the anticipated start of any surface disturbing activities. The authorized officer may require and schedule a conference with the holder prior to the holder commencing surface disturbing activities on the right-of-way.
17. 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).
18. The holder is responsible to ensure 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 to reduce the establishment of new invasive, non-native species or the spread of existing species to new areas. High concentrations of noxious weeds in the immediate area of mechanical operations shall be mowed to ground level prior to the start of project activities. All equipment and vehicles operating off of main roads shall be cleaned off prior to leaving the job site when the job site includes noxious weed populations.
19. 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.
20. 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.
21. The holder shall keep the right-of-way area clean by removal of any debris or waste resulting from operational activities.
22. Holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer.
23. All traffic associated with the operation and termination of the right-of-way shall be confined to the right-of-way or designated access routes, roads, or trails unless otherwise authorized in writing by the authorized officer.
24. If the designated access routes, roads, or trails are damaged by the holder, the holder will be required to repair the damage. All of holder's controlled equipment or equipment under contract to the holder operating upon such access routes, roads, or trails shall be maintained in a good and safe operating

condition and shall be operated cautiously so as to minimize accident hazards. All equipment and vehicle operators shall have a valid license to operate the associated equipment or vehicle(s).

25. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
26. To avoid causing harm to migratory birds the installation and any subsequent maintenance activities that would disturb vegetation should avoid taking place during the migratory bird nesting season (Generally occurring February 1 through July 31st) or until occupied nest are no longer active. If the holder wishes to complete installation or maintenance activities that would disturb vegetation during the nesting period they will be required to conform to current policy concerning raptors and migratory birds. This may include having a qualified biologist inspect the area prior to and during activities and/or getting the any required permits from the United States Fish and Wildlife Service.
27. In the event that the public land underlying the right-of-way encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the right-of-way or the land underlying the right-of-way is not being reserved to the United States in the patent/deed and/or the right-of-way is not within a right-of-way corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the right-of-way shall be considered a civil matter between the patentee/grantee and the right-of-way Holder.