

CATEGORICAL EXCLUSION

Project Name/ Applicant: Kendell Pivot Crossing Right-of-Way Renewal

Project/Case File Number: IDI-33052

Project Lead: Heather Schlenker

CX Number: DOI-BLM-ID-I010-2014-0004-CX

Date of Preparation: January 13, 2014

PROPOSED ACTION:

On June 10, 2012, Lynn Kendell submitted an application (SF-299) requesting a renewal of a right-of-way (ROW) authorization for an existing irrigation pivot wheel crossing. The line is located in Bingham County approximately 13 miles South West of Blackfoot as described below:

Boise Meridian, Idaho

T. 3 S., R. 33 E., sec. 19, W $\frac{1}{2}$ SE $\frac{1}{4}$.

The pivot crossing, serial number IDI-33052, does not water on the portion crossing over public land and no crops are grown under the area in which the pivot crosses. The ROW encumbers approximately 13 acres of public land.

The original ROW was issued January 27, 2000 and was renewed in 2003 for a period of 10 years expiring on January 1, 2013.

The proposed action is to issue a grant of right-of-way authorization to Lynn Kendell for a period of approximately 10 years, expiring on December 31, 2022. The issuance of the grants of right-of-way is authorized under Public Law 94-579 (Federal Land Policy and Management Act of October 21, 1976) (90 Stat. 2776; 43 U.S.C. 1761), and the current regulations found at 43 CFR 2800.

No additional rights would be granted beyond those of the original grant. Standard BLM terms and conditions will be included in the FLMPA grant.

The ROW is located in an area that is currently listed as Preliminary General Habitat (PGH) for Sage Grouse.

CONSULTATION AND COORDINATION:

On January 13, 2014, this project was brought before an Interdisciplinary Team consisting of Bureau of Land Management (BLM) specialists. A description of the proposed action was posted to the online NEPA register. This is available to members of the public through the Upper Snake

Field Office webpage. No comments were received and no issues/conflicts were identified for this project.

FINDING AND RECOMMENDATION:

The proposed action is categorically excluded as outlined in 516 DM 11.9 E (9). This exclusion states that renewing and assigning permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations may be excluded from further environmental review. None of the extraordinary circumstances described in 43 Code of Federal Regulations (CFR) 46.215 apply.

Standard stipulations currently used for rights-of-ways would be incorporated into the grant to bring this authorization to current standards.

I recommend that the right-of-way authorization, IDI-33052 be granted for approximately 10 years, expiring on December 31, 2022. The grant would be issued with the right to renew, subject to current terms and conditions and the attached stipulations (Exhibit B). The right-of-way would be granted under the authority of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and current Bureau regulations found at 43 CFR 2800. Rent will be collected in accordance with 43 CFR 2806.10.

DECISION AND RATIONALE FOR THE DECISION:

It is my decision to issue a grant of right-of-way to Lynn Kendell for IDI-33052, authorizing the continued use of an existing irrigation pivot wheel crossing on public land, under the authority of Title V of Public Law 94-579 (Federal Land Policy and Management Act). The right-of-way encumbers approximately 1.17 acres. The grant would be issued for approximately 10 years, expiring on December 31, 2022, with the right to renew, subject to the current terms and conditions found at 43 CFR 2800 and the attached stipulations (see Exhibit B). Rent will be collected in accordance of 43 CFR 2806.10.

The subject action qualifies as a Categorical Exclusion and meets the criteria contained in 516 DM 2, 11.9 E (9). None of the exceptions found in 43 Code of Federal Regulations (CFR) 46.215 apply.

LAND USE PLAN CONFORMANCE:

The Proposed Action is located in Bingham County, Idaho, within the boundaries of the Upper Snake Field Office. The BLM's Big Desert Management Framework Plan (BLM 1981) provides general guidelines for the protection and use of resources in these areas. While this action is not specifically addressed in the document, the plan does provide for the consideration of right-of-way applications.

APPEALS INFORMATION:

43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10

/s/Heather Schlenker, Realty Specialist
Date: 4/14/2014

/s/Marissa Guenther, NEPA Reviewer
Date: 4/14/2014

/s/Glen Guenther acting for: Jeremy Casterson, Upper Snake Field Manager
Date: 4/18/2014

Extraordinary Circumstances Requiring Preparation of an EA or EIS

(516 DM 2, Appendix 2)

The action described in categorical exclusion # DOI-BLM-ID-I010-2014-0004-CX has been reviewed to determine that none of the extraordinary circumstances listed below pertain to the proposed action.

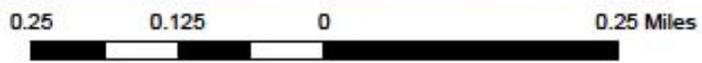
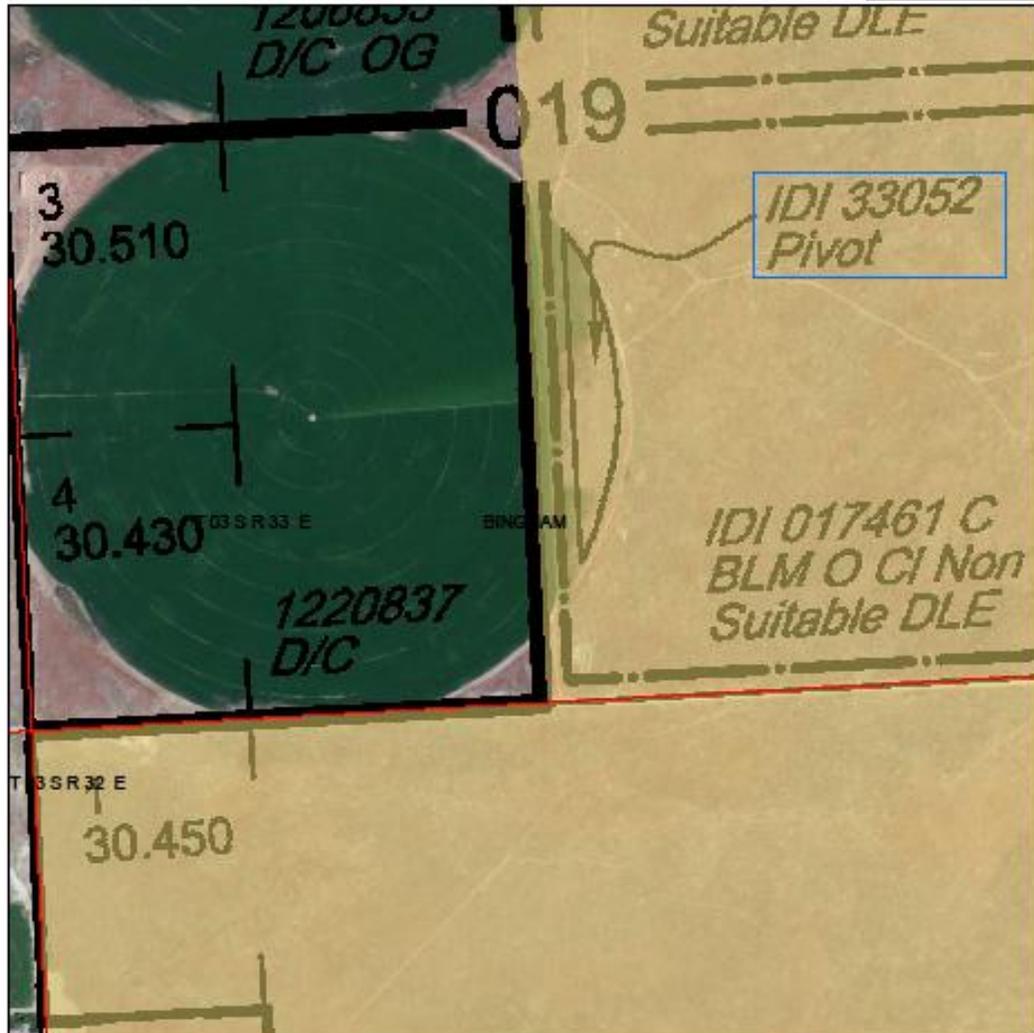
<u>DM</u> #	<u>Extraordinary Circumstance</u>	<u>YES</u>	<u>NO</u>
1	Have significant impacts on public health or safety. <i>The proposed action will have no significant impacts on health or safety of the public.</i>		X
2	Have significant impacts on such natural resources and unique geographic characteristics 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. <i>-No wilderness, wilderness study areas and wild and scenic rivers are present near the project area. The ROW proposal would not impede opportunities for recreation. This project is not located within a riparian-wetland area, Area of Critical Environmental Concern (ACEC) or Research Natural Area (RNA), therefore, no impacts would occur.</i> <i>-This project occurs within, or adjacent to, a previously disturbed area, as long as stipulations found in the Animal Clearance Form are being met it is not expected that it will have any significant impacts to migratory birds within the project area.</i> <i>- No known historic or cultural resources are located within the project area. This action is exempted under the State Protocol agreement between BLM and Idaho State Historic Preservation Offices (SHPO).</i>		X
3	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]. <i>Action will not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. The existing ROW has been in place for 14 years, and no known highly controversial or potentially significant environmental effects have resulted and should not result from the issuing of a renewed ROW.</i>		X
4	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. <i>No known highly uncertain and potentially significant environmental effects or unique or unknown environmental risks are anticipated as a result of issuing a ROW.</i>		X
5	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. <i>The proposed action would not establish a precedent for future actions. Standard annual maintenance and monitoring practices would continue to be accomplished for the ROW in the same manner as other authorized ROW's.</i>		X

<u>DM</u>		<u>YES</u>	<u>NO</u>
#	<u>Extraordinary Circumstance</u>		
6	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. <i>The proposed action would not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. No cumulatively significant effects are anticipated.</i>		X
7	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. <i>As there are no known historic properties listed or eligible for listing on the NRHP located in the project area, the proposed action would have no significant impacts.</i>		X
8	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. <i>As there are no T&E or Proposed species, or critical habitat present within the project area, no significant impacts to these species would be expected.</i>		X
9	Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. <i>The proposed action does not violate any federal law or a State, local, or tribal law or requirement imposed for the protection of the environment. No cumulatively significant effects anticipated.</i>		X
10	Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). <i>The proposed action would have no adverse effects on low income or minority populations.</i>		X
11	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). <i>There are no known sacred sites in the project area. The project will not limit access, and would have no known effects on traditional resource use of the area.</i>		X
12	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). <i>The applicant will be responsible to comply with standard terms and conditions for weeds which are included in the authorization. The proposed action is not anticipated to contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species.</i>		X



IDI-33052 Kendell Pivot Crossing
T. 3 S., R.33 E., sec. 19, W1/2 SE1/4.

Exhibit A
 12/11/2013
 HS



Legend

Surface Management Agency (USFO)

- Surface Management Agency**
- Bureau of Land Management
 - Private
 - State
 - Forest Service



THE STATE OF UTAH
 DEPARTMENT OF HERITAGE AND ARTS
 DIVISION OF LAND MANAGEMENT
 260 EAST SOUTH ST. SUITE 200
 SALT LAKE CITY, UT 84143-2000
 (801) 536-5800
 WWW.DLM.UH.GOV



Stipulations- Exhibit B

IDI-33052

Operation and Maintenance

1. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
2. No routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3 inches deep, the soil shall be deemed too wet to adequately support construction equipment.
3. 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.
4. 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.
5. 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 may 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.

Weed Control

6. The holder shall be responsible for weed control 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).
7. Use of all pesticides (including fungicides, herbicides, insecticides, etc.) shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within 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.
8. During surface disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves,

seeds, and all other vegetative parts) prior to entering public lands in order to minimize the transport and spread of noxious weeds. During surface disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves, seeds, and all other vegetative parts) prior to leaving public lands in areas that are known by the authorized officer of the BLM to be infested with noxious weeds.

Cadastral

9. 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 a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in 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.

Cultural

10. 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.
11. 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. 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. The holder shall notify the Authorized Officer at least 90 days prior to any non-emergency activities that would cause surface disturbance in the right-of-way. The Authorized Officer will determine if a cultural resource inventory, treatment or mitigation is required for the activity. The holder will be responsible for the cost of inventory, avoidance, treatment or mitigation; including any maintenance-caused damage. The Authorized Officer will determine avoidance, treatment and mitigation measures that are necessary after consulting with the holder and under Section 106 of the National Historic Preservation Act.

Environmental Protection

13. The 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.
14. 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 HazMat, as defined in this paragraph, that will be used, produced, transported or stored on or within the ROW or any of the ROW facilities, or used in the construction, operation, maintenance or termination of the ROW or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the CERCLA of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the RCRA of 1976, as amended, 42 U.S.C. 6901 et seq. and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U. S. C. 2011 et seq. 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.