

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

Decision Record

For the

**Phillips Water Facilities Right-of-Way IDI-5853 (Williams Creek) Associated Culvert
Environmental Assessment DOI-BLM-ID-I010-2012-0013-EA**

Introduction and Background

On March 29, 2010, Mrs. Billie Phillips filed an application to renew right-of-way (ROW) IDI-5853, for the continued use of public land in Butte County for an irrigation diversion structure and a buried pipeline approximately 3,300 feet in length and thirty wide, encumbering 2.27 acres, more or less. The ROW, which expired on November 22, 2007, was authorized under the Federal Land Policy and Management Act (FLPMA) of 1976 as amended (43 U.S.C. 1761) (FLPMA) and the regulations found in 43 CFR 2800. The ROW is located in SE¹/₄NW¹/₄ and the NE¹/₄SW¹/₄ of section 10, T. 9 N., R. 27 E., Boise Meridian, Idaho. The diversion facilities divert water out of Williams Creek into a pipeline. Williams Creek is occupied habitat for a population of bull trout, (*Salvelinus confluentus*) and the fish are a federally listed threatened species. In order to renew the right-of-way, the Bureau of Land Management had to ensure compliance with the Endangered Species Act (ESA).

In addition to the need to renew the ROW, the EA explains that the existing access road which crosses Williams Creek about 1/2 mile above the upper diversion is contributing to sediment in the stream. The installation of a culvert was analyzed to assess the potential to prevent further erosion of the road crossing and to prevent sediment from entering the stream. Appendix A includes guidelines found in the “Conservation Measures Applicable to Programmatic Activities (As Identified in the Assessment) Stream Crossing Replacement and or Removal Programmatic Consultation,” which will be followed.

Installation of culverts in bull trout streams is analyzed in the *Programmatic Concurrence and Biological Opinion for Stream Crossing Structure Replacement And Removal Program in Idaho National Forests: Payette, Boise, Sawtooth, Salmon-Challis, Nez Perce and Clearwater; Idaho/Nevada Bureau of Land Management: Challis, Cottonwood, Coeur d’Alene, Four Rivers, Jarbidge, Salmon, and Upper Snake Field Offices, 2006*. All conservation measures and best management practices will be followed; therefore, no additional Section 7 Consultation is required on this action.

Decision

It is my decision to allow for the installation of a culvert located NW¹/₄SE¹/₄ of section 2, T. 9 N., R. 27 E., Boise Meridian, Idaho. The culvert would be installed using conservation measures identified in Appendix A of the Environmental Assessment. This decision does not include the amendment and renewal of ROW, IDI-5853, or any associated features.

Rationale

Installation of the culvert as described in Alternative C meets the purpose and need for this action. Implementing this action will reduce sediment in Williams Creek, allowing for long-term maintenance of the channel and associated riparian-wetland vegetation, improvement of water quality, and mitigation of sediment impacts to bull trout.

I have determined that the proposed action is in conformance with the *Little Lost-Birch Creek Management Framework Plan (1981)*. The Little Lost-Birch Creek MFP in Decision #2 under the Watershed Resource calls for reducing erosion, increasing vegetative cover and improving watershed condition through land treatments or improved management. This culvert installation would reduce severe bank erosion presently occurring at the low water crossing.

Based on the analysis of potential environmental impacts contained in DOI-BLM-ID-I010-2012-0076-EA, I have determined that impacts are not expected to be significant and an environmental impact statement is not required.

/s/ Jeremy Casterson

Jeremy Casterson, Upper Snake Field Manager

Date: July 10, 2014

Appeal Information:

Appeal procedures may be found at *43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10*.

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

Decision Record

For the

**Phillips Water Facilities Right-of-Way IDI-5853 (Williams Creek)
Environmental Assessment DOI-BLM-ID-I010-2014-0013-EA**

Introduction and Background

On March 29, 2010, Mrs. Billie Phillips filed an application to renew right-of-way (ROW) IDI-5853, for the continued use of public land in Butte County for an irrigation diversion structure and a buried pipeline approximately 3,300 feet in length and thirty wide, encumbering 2.27 acres, more or less. The ROW, which expired on November 22, 2007, was authorized under the Federal Land Policy and Management Act (FLPMA) of 1976 as amended (43 U.S.C. 1761) (FLPMA) and the regulations found in 43 CFR 2800. The ROW is located in SE¹/₄NW¹/₄ and the NE¹/₄SW¹/₄ of section 10, T. 9 N., R. 27 E., Boise Meridian, Idaho. The diversion facilities divert water out of Williams Creek into a pipeline. Williams Creek is occupied habitat for a population of bull trout, (*Salvelinus confluentus*) and the fish are a federally listed threatened species. In order to renew the right-of-way, the Bureau of Land Management had to ensure compliance with the Endangered Species Act (ESA).

The Phillips also have the water rights to divert water for irrigation purposes in SW¹/₄SW¹/₄ of section 2, T. 9 N., R. 27 E., Boise Meridian, Idaho. This diversion was put in place prior to FLPMA and is recognized by the Bureau of Land Management under of the Act of July 26, 1866. This structure diverts water into an open ditch which flows approximately 0.8 miles to the diversion authorization under IDI- 5853. Between the diversions, because there are no fish screens, the potential for entrainment of bull trout exists.

In order to eliminate the potential for entrainment, the ROW needed to be amended to allow for the construction and maintenance of a fish screen. The holder agreed to allow a fish screen at the upper pre-FLPMA diversion. A fence around the screened diversion would be constructed to protect the facilities from livestock grazing and to stabilize the banks in the riparian-wetland area. A pipeline placed between the upper and lower diversion was also analyzed to decrease erosion and sediment in the ditch, maximize conveyance of water to the private land for irrigation purposes, and there would be less evaporation of the water which could lead to more water being left in the stream to flow down the original stream channel creating new fisheries habitat and assisting in the production of additional riparian vegetation. See attached Exhibit A, Right-of-way Map.

The BLM Upper Snake Field Office posted the Proposed Action on the BLM e-Planning website on April 4, 2013. No comments were received regarding this project.

Decision

It is my decision is to implement Alternative C according to the map (Exhibit A) and the terms and conditions (Exhibit B). This includes the amendment and renewal of ROW, IDI-5853. The ROW will authorize an area 50 feet by 50 feet or 0.06 acres at each diversion, a fence at the upper diversion .05 acres, and pipelines approximately 7,030 feet in length, and 30 feet wide or 4.84 acres. The total right-of-way is 5.46 acres, more or less. The grant would be issued for a 30 year period, retroactive to the expiration date, expiring on December 31, 2038. The grant is issued with the right to renew and subject to the current terms and conditions found at 43 CFR 2800 and the attached stipulations (Exhibit B). Rent would be collected on 2.27 acres that were authorized under the FLPMA, the remaining 3.19 acres that were originally recognized under of the Act of July 26, 1866 will be waived according to 43 CFR 2806.

Rationale

Alternative C meets the purpose and need for this action. Implementing this alternative brings compliance with the Endangered Species Act of 1973 and is in compliance with National Historic Preservation Act, the Clean Water Act, and other applicable laws, regulations, and policies.

I have determined that the proposed action is in conformance with the *Little Lost-Birch Creek Management Framework Plan (1981)*. The MFP provides overall guidance for the management of natural and cultural resources and issuance of rights-of-ways on public lands. The processing of right-of-way applications is addressed in the RMP under the “Standard Operating Procedures” section (page 47).

Based on the analysis of potential environmental impacts contained in DOI-BLM-ID-I010-2012-0076-EA, I have determined that impacts are not expected to be significant and an environmental impact statement is not required.

/s/Jeremy Casterson, Upper Snake Field Manager

Date September 23, 2014

Appeal Information:

Appeal procedures may be found at *43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2801.10*.