

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
CHALLIS FIELD OFFICE  
Categorical Exclusion  
McGowan Land Use Permit  
DOI-BLM-ID-I030-2014-0008-CX**

**Applicant: Michael McGowan**  
**Project/Serial No.: IDI-37788**  
**Project Lead: Joni Cain, Realty Specialist**  
**Date: April 2015**

**Background:**

In March of 2011, as a result of a private survey Michael McGowan had conducted on his property, it was discovered that the previous recorded survey was in error, resulting in an unintentional trespass on Bureau of Land Management (BLM) lands. Mr. McGowan contacted the Challis Field Office in an effort to resolve the trespass. He proposed to purchase the property on which he had built his shop, a run-off ditch, parking area and water tank. The property is not currently identified for disposal therefore a sale is not an option for authorizing the current use.

**Proposed Action:**

On July 31, 2014, Michael McGowan submitted an application for a Land Use Permit (LUP) for lands located at the following legal description: **Boise Meridian, Idaho, T. 13 N., R. 19 E., section 9, SENE.** The proposed LUP would encumber 2.008 acres of BLM land within Custer County. The proposed permit would allow the existing 50 by 50 foot shop, run-off ditch, parking area and water tank to remain within the limits of the current disturbance. This LUP would be issued to the current adjacent land owner (Mr. McGowan), with the right to renew and/or assign, should the private property be sold.

**Consultation and Coordination:**

This proposed project was posted on the e-planning web site on August 7, 2014. No comments have been received from the public, local governments or tribal governments.

**Land Use Plan Conformance Statement:**

Land Use Plan Name: Challis Resource Management Plan

Date Approved/Amended: July 1999

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): Page 35, Land Tenure and Access, Goal 3: *Consider public needs for use authorizations, such as rights-of-way, leases, permits, and withdrawals.*

**Finding and Recommendation:**

The proposed action is categorically excluded as outlined in 516 DM 11.9, Realty section E, number 20, which states: *One-time issuance of short-term (3years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed...*, and none of the extraordinary circumstances described in 516 DM 2, Appendix 2 apply.

I recommend that the proposed Land Use Permit (LUP) be issued with the stipulations included here as Exhibit A, be renewable and assignable until such time as the property can be identified for sale.

Preparer signature /s/ Joni D. Cain, Realty Specialist  
 Date 5/12/2015

**Extraordinary Circumstances Requiring Preparation of an EA or EIS**

The action described in categorical exclusion DOI- BLM-ID-I030-2014-0008-CX has been reviewed to determine if any of the following extraordinary circumstances listed below apply, as listed in the Departmental NEPA regulations (43 CFR 46.215). A rationale for why the circumstance does not apply is included below:

	<b>Extraordinary Circumstance</b>
1.	Have significant impacts on public health or safety: <b>RATIONALE:</b> The area has been in use under current conditions for 6-8 years. No impact on public health and safety are expected, as there is no water or motorized public access to the site.
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: <b>RATIONALE:</b> There are no significant impacts in the project area.
3.	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]: <b>RATIONALE:</b> There are no such effects or conflicts in the project area.
4.	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks: <b>RATIONALE:</b> There are no such effects or risks in the project area.
5.	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects: <b>RATIONALE:</b> There are no precedent for future action in the project area.
6.	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects: <b>RATIONALE:</b> There are no such concerns or conflicts in the project area, cumulatively or otherwise.
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: <b>RATIONALE:</b> Consultation under the National Historic Preservation Act of 1966 (as amended) has been conducted in accordance with BLMs National Programmatic Agreement and the implementing protocol agreement between Idaho BLM and the Idaho State Historic

	<b>Extraordinary Circumstance</b>
	Preservation Office. This project would have no effect to cultural resources.
8.	<p>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:</p> <p><b>RATIONALE:</b>  A Biological Evaluation for ESA listed fish species was conducted on 8/4/2014. It was determined by the BLM CFO Fisheries Biologist that the proposed action would have <b>No Effect</b> on ESA listed fish species, including Snake River Chinook salmon, Snake River steelhead, Snake River Sockeye Salmon, Columbia River bull trout or their designated critical habitat in the Salmon River.</p>
9.	<p>Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment:</p> <p><b>RATIONALE:</b>  The project does not violate any known law or regulation.</p>
10.	<p>Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898):</p> <p><b>RATIONALE:</b>  There are no such identified populations in the project area.</p>
11.	<p>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):</p> <p><b>RATIONALE:</b>  No such sites are known to exist within the Land Use Permit area.</p>
12.	<p>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, gLUPth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112):</p> <p><b>RATIONALE:</b>  The following stipulations of the Land Use Permit will apply:  The holder shall be responsible for weed control on disturbed areas within the limits of the Land Use Permit. 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 Field Office Weed Management Program. Coordination with the Challis Field Office Weed Specialist shall be completed <b>before</b> applying herbicides.</p> <p>No new soil disturbance will occur on BLM lands without consultation and approval of the Challis Field Office. This includes any necessary excavation due to a flood or run off event.</p>

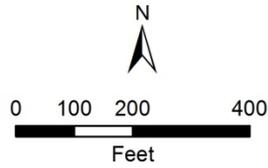
# McGowan LUP



- Land Use Area
- Townships
- Sections
- Aliquots

**Surface Management Agency**

- Bureau of Land Management
- Private
- State Park



No warranty is made by the Bureau of Land Management (BLM). The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed. Map date: May 2015



**EXHIBIT A  
STIPULATIONS  
IDI-37788**

1. The holder shall conduct all activities associated with the construction, operation, and termination of the Land Use Permit within the authorized limits of the Land Use Permit.
2. Holder shall remove only the minimum amount of vegetation necessary for the use and maintenance of the existing road.
3. Land Use Permit area 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. The holder shall be responsible for weed control on disturbed areas within the limits of the Land Use Permit. 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 Field Office Weed Management Program. Coordination with the Challis Field Office Weed Specialist shall be completed before applying herbicides.
5. The holder of Land Use Permit No. IDI-37788 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 Land Use Permit (unless the release or threatened release is wholly unrelated to the Land Use Permit holder's activity on the Land Use Permit.) This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
6. 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.
7. 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.

8. 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.
9. Ninety (90) days prior to termination of the Land Use Permit, the holder shall contact the authorized officer to arrange a joint inspection of the Land Use Permit. 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.
10. No new soil disturbance will occur on BLM lands without consultation and approval of the Challis Field Office. This includes any necessary excavation due to a flood or run off event.
11. Storage on the site is strictly limited to the higher elevation portion of the site, near the shop. No decorative or other such items will be placed on the lower elevation portion of the site.

**Decision and Rationale for the Decision:**

It is my decision to issue a Land Use Permit to Mike McGowan with the above terms and conditions. The Land Use Permit will be renewable and assignable in the event that the private property is sold prior to the property being identified for disposal.

Issuance of the Land Use Permits will cause no significant environmental disturbance. The subject action qualifies as a Categorical Exclusion and meets the criteria contained in 516 DM 11.9, Realty section E, number 16. None of the exceptions found in 43 Code of Federal Regulations (CFR) 46.215 applies.

Field Manager signature /s/ Todd Kuck  
Date 5/13/2015

**Appeals Information:**

*Appeals information can be found at 43 CFR part 4.*